

COUNCIL:

28 FEBRUARY 2019

CABINET PROPOSAL

COUNCIL TAX PREMIUMS

Reason for this report

1. On 29th November 2018 Cabinet resolved to undertake a consultation exercise on the application of a council tax premium on long term empty dwellings. This consultation exercise was completed on 14th January 2019. The purpose of this report is to consider the results of the consultation exercise and inform the final decision that will be made by the Council.

Background

Long term empty dwellings in Cardiff

2. Many issues of community concern arise from some of the empty properties within the city; these include fly tipping, nuisance, vandalism, criminal activity and visual deterioration, all of which have the potential to adversely affect neighbouring properties and residents. Some empty properties can be a blight on a local community and boarded up dwellings have a significant impact on the way potential investors perceive an area. In addition to the above, empty properties also represent a wasted resource in light of the housing demand within the city. There are currently approximately 1400 properties empty for more than six months at any one time and the Housing enforcement team within the Shared Regulatory Services (SRS) actively monitor 200 of those empty properties on a prioritised basis as part of the Cardiff Housing Strategy.
3. In addition to reactive visits to complaints about empty properties, the SRS also work proactively to capture the wider scope of long term empty properties. The Council seeks to incentivise owners to act positively in bringing properties into beneficial use in a number of ways. These include signposting owners to the Houses into Homes loan scheme, providing a list of private property developers, referring to a Housing Association for lease and repair where feasible or providing proof of empty status letters for VAT reduction on renovation costs. Although some owners may be receptive to this approach, there are of course situations where owners are absent and cannot be traced or are resistant to resolving the issues. In these circumstances, the SRS is able to exercise a number of enforcement powers. These can deal with immediate issues such as fly tipping and making premises secure to more long-term solutions such as enforced sale

or compulsory purchase. The imposition of premiums for long term empty dwellings could act as an added incentive to bring properties back into beneficial occupation.

Council tax premiums

4. The Housing (Wales) Act 2014 has amended the Local Government Finance Act 1992 by inserting section 12A which gives the Council the discretion to apply a premium of up to 100% to long term empty dwellings on top of the standard rate of council tax. A long-term empty dwelling is defined as a dwelling which is both unoccupied and substantially unfurnished for a continuous period of at least a year
5. Where a billing authority makes a determination to charge a premium on long-term empty dwellings, it may specify different percentages (up to a maximum of 100 per cent) based on the length of time for which they have been empty. This gives the discretion to take a stepped approach with incremental increases applying over time
6. The Council can make, vary or revoke a determination made under section 12A of the 1992 Act, but only before the beginning of the financial year to which the determination applies. Where a determination is made to apply a council tax premium, a local authority must publish a notice of the determination in at least one newspaper circulating in its area within 21 days of the date of the determination.
7. Council Tax legislation provides for a number of specific exemptions from the charge including a number of exemptions where a dwelling is unoccupied such as a dwelling that is undergoing structural repairs (for up to 12 months) and a dwelling that is unoccupied and substantially unfurnished (for up to 6 months).
8. A dwelling that is exempt from council tax is not liable for a premium. However, where a dwelling is no longer eligible for an exemption, but remains unoccupied, it may become liable for the premium. In the case of a dwelling that is unoccupied and substantially unfurnished, it could be liable for a premium after it has been empty for a continuous period of one year.
9. When someone dies and the property is left unoccupied there is an exemption from the date of death until probate or letters of administration are granted. Provided that the property continues to be unoccupied there is a further exemption for a period of up to 6 months from this date. A Council Tax premium can only apply when the property is no longer entitled to an exemption and has been unoccupied and substantially unfurnished for at least 12 months.

Exceptions to the Council Tax Premiums on Long Term Empty Properties.

10. A premium also cannot be charged on a dwelling that falls within an exception class. The Council Tax (Exceptions to Higher Amounts Wales) Regulations 2015 sets out the following exceptions –

Classes of Dwellings	Definition	Application
Class 1	Dwellings being marketed for sale – time-limited for one year	Long-Term Empty Homes and Second Homes
Class 2	Dwellings being marketed for let – time-limited for one year	
Class 3	Annexes forming part of, or being treated as part of, the main dwelling	
Class 4	Dwellings which would be someone's sole or main residence if they were not residing in armed forces accommodation	

Numbers and percentages of long term empty dwellings in Cardiff

11. As at 31st December 2018 there were 156,460 dwellings on the Council Tax Valuation list and currently 3135 (2%) are recorded as being unoccupied and substantially unfurnished. Of this figure 1815 are exempt and out of the remaining dwellings 869 (28% of the vacant dwellings and 0.55% of the total number of dwellings) had been unoccupied and substantially unfurnished for more than 12 months.
12. The figures above give an indication of the numbers of properties that may be affected if a decision is made to charge a premium on long term empty dwellings although it should be noted that this is subject to the exceptions detailed in paragraph 10. The number of empty dwellings is also constantly changing so the figures are variable.
13. It is very difficult to estimate how many exceptions there will be. A review of the council tax file was undertaken on 50 of the long term empty dwellings and thirteen of these dwellings were found to be for sale which constitutes 26% and if the premium is applied this figure is likely to significantly increase. Therefore, at this stage and based on the little information we have, a reasonable estimate may be to reduce the potential additional income by 50% for long term empty dwellings

Options for level of premiums

14. The maximum level of premium that can be applied to long term empty dwellings is 100% although the legislation also permits that different percentage premiums can be applied, for example the options of the level of the premiums that could be considered could range from 0%, 25%, 50%, 75% or 100% on top of the standard level of council tax. The Council also has the discretion to extend the time period before applying a premium therefore although the legislation allows the Council to apply a premium after twelve months it can extend this time to allow owners further time to bring a property back into use. For example, the Council could decide to charge a premium after 24 months. If the Council decides to adopt this the

earliest that the premium could apply for long term empty property would be 1st April 2019.

Consultation

15. A determination by a local authority to charge a premium under section 12a of the Local Government Finance Act 1992 must be made by full Council. Prior to doing so a local authority must give due consideration to its statutory duties to carry out equality impact assessments under the Equality Act 2010 and the Welsh Public Sector Equality Duties 2011 (see appendix 1) and to all other relevant considerations. The Welsh Government has also stated that a local authority should give consideration to engagement and consultation with key stake holders, including the local electorate, before taking a decision as to whether or not to charge a premium.
16. Therefore following the Cabinet decision on 29 November an on line consultation exercise has been undertaken from 14th December 2018 to 14th January 2019.

Outcome of consultation exercise

17. Responses were received from over 500 different stake holders including residents, businesses and landlords with the overwhelming majority (85.7%) believing that empty properties are an eyesore.
18. 71% of the responders felt that a council tax premium of 50% or more should be charged on long term empty dwellings with a full 100% council tax premium being the most popular choice of all of the options given (43%).
19. In addition, 63.8% of the responders indicated that a premium should be charged after a property has been left unoccupied and largely unfurnished for a period of a year. See appendix 2 for a summary of the survey results.

Other Councils

20. To date, council tax premiums have been charged by several Welsh Councils including Flintshire, Pembrokeshire, Wrexham, Gwynedd and Ceredigion but this issue is also currently being actively considered by a number of other Welsh Councils. Despite the fact that the legislation permits a premium charge of up to 100% to date all of the Councils have opted for a 50% premium on long term empty dwellings.

Potential additional income

21. The Welsh Government have confirmed that councils are able to retain any additional funds generated by implementing premiums and amendments to the calculation of the tax base will be made to facilitate this. However, authorities are encouraged to use any additional revenue generated to help meet local housing needs in line with the policy intentions of the premiums.

22. An analysis of the potential income from the application of a premium has been undertaken. For the purposes of the estimate we have used the 869 dwellings (see 14 above) that had been unoccupied and substantially unfurnished for twelve months or more and calculated a full charge for these using the 2018/19 council tax charges assuming a Band D charge. The figures have been calculated on the basis that the properties concerned will continue to remain unoccupied for the whole of the financial year.
23. Therefore, for example, if the Council decides to apply a 50% premium for long term empty dwellings it is anticipated that this would raise approximately £600,000 less 50% for excepted dwellings (see 13 above) = £300,000.. This would mean that properties that have been unoccupied and substantially unfurnished for between six and twelve months would see an increase in the charge from 50% to 100% and properties that have been empty for longer than a year would see an increase in charge from 50% to 150%. This should be seen in the context of a policy decision to encourage an increase in dwellings being brought back into use .As stated previously a local authority has the discretion to decide on the level of premium that is charged and apply different percentage premiums for different time periods.

Reason for Recommendations

24. It is necessary for the Council to consider the discretionary powers that are available in relation to applying Council Tax premiums.

Financial Implications

25. Local authorities will be able to retain any additional funds generated by implementing Council Tax premiums on long term empty dwellings although it should be noted that the Welsh Government is encouraging authorities to use any additional revenue generated to help meet local housing needs. The additional cost of administration and recovery will need to be kept under review in order that there is no adverse impact on council tax collection rates because of any diversion of resources to this aspect of recovery.

Legal Implications

26. An equality impact assessment has been carried out and is attached in appendix 2.
27. The Council must consider the consultation responses and take them into account in its decision making.
28. The Council has to satisfy its public sector duties under the Equality Act 2010. Pursuant to these legal duties the Council must, in making decisions, have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics.

Protected characteristics are:

Age
Gender reassignment
Sex
Race – including ethnic or national origin, colour or nationality
Disability
Pregnancy and maternity
Marriage and civil partnership
Sexual orientation
Religion or belief – including lack of belief

29. An Equality Impact Assessment has been undertaken to ensure that the Council has properly understood and assessed the potential impacts of the proposal in terms of equality so that it can ensure that it is making proportionate and rational decisions having due regard to its public sector equality duty. The Council must consider and have due regard to the Equality Impact Assessment prior to making the decision recommended in this Report.
30. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving seven national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
31. In discharging its duties under the Act, the Council has set and published well being objectives designed to maximise its contribution to achieving the national well being goals. The well being objectives are set out in Cardiff's Corporate Plan 2018-21: <http://cmsprd.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Corporate-Plan/Documents/Corporate%20Plan%202018-21.pdf> When exercising its functions, the Council is required to take all reasonable steps to meet its well being objectives. This means that the Council should consider how the proposed decision will contribute towards meeting the well being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
32. The well being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
 - Look to the long term
 - Focus on prevention by understanding the root causes of problems
 - Deliver an integrated approach to achieving the 7 national well-being goals
 - Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them

33. The Council must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

HR Implications

34. There are no Human Resource Implications for this proposal.

CABINET PROPOSAL

Council is recommended to agree that with effect from 1st April 2019 a 50% council tax premium is applied to long term empty dwellings that have been unoccupied and substantially unfurnished for a period of 12 months or more.

THE CABINET 21 February 2019

The following appendices are attached:

Appendix 1 - Summary of Consultation Exercise
Appendix 2 - Equality Impact Assessment