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Carmarthenshire County Council

Second Homes & Empty Properties

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Contents	Page
1. Background	2
2. Effects on Carmarthenshire	5
3. A joined-up approach to tackling the impact of second homes on the availability of affordable homes in our communities	8
4. Recommendations	17

1. Background

This report pulls together the areas for consideration by Cabinet in relation to Second Homes, short term holiday lets and Empty Properties.

Concerns have been raised at both a local and National level about the perceived impact of growing numbers of second homes and empty properties on our communities

Welsh Government have different approaches and policies to address the issues in relation to these areas. Noted below are overviews on the following areas:

- Second Homes and short-term holiday lets
- Empty Properties
- Council Tax Premium

Second Homes and short term holiday lets

Welsh Government announced in 2021 a three-pronged approach to address “second homes crisis”

Welsh Governments' reasoning for this approach is that it has fairness at its heart, ensuring that everyone in Wales can have access to good quality, affordable housing.

The three-pronged approach will focus on:

- support - addressing affordability and availability of housing,
- regulatory framework and system - covering planning law and the introduction of a statutory registration scheme for holiday accommodation; and
- a fairer contribution - using national and local taxation systems to ensure second homeowners make a fair and effective contribution to the communities in which they buy:
 - The Housing Act 2014 introduced provisions that now allow local authorities to apply a Council Tax Premium (or “surcharge”) in respect of long-term vacant dwellings and/or dwellings classed as “second homes”. When the legislation was introduced the council tax premium (or surcharge) could be set as high as 100% in which case the liable person would be liable to pay double the full occupied charge.
 - From April 2023 the legislation will be amended and will allow the maximum level at which local authorities can set council tax premiums on second homes and long-term empty properties to be increased to 300%, which will be effective from April 2023.
 - For long term voids an authority may specify different percentages for different dwellings based on the length of time for which they have been empty. For example, a 50% premium i.e. a 150% charge for dwelling vacant say between 2 and 5 years and a 100% premium a 200% charge for dwellings vacant over 5 years.
 - There is no requirement for the additional income generated to be ring-fenced for any particular purpose, however, the guidance issued by Welsh Government, states that authorities are “*encouraged to use any additional*

revenue generated to help meet local housing needs, and to improve the supply of affordable housing"

- Authorities are required to make certain determinations and take certain actions beforehand, including impact assessments and consultation. The determination by a local authority to charge a premium under section 12A or 12B of the 1992 Act 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 and to all other relevant considerations. Cabinet should also give consideration to engagement and consultation with key stakeholders, including the local electorate, before taking a decision as to whether or not to charge one or both of the premiums.
- The criteria for self-catering accommodation being liable for business rates instead of council tax will also change from April 2023.
- Currently, properties that are available to let for at least 140 days, and that are actually let for at least 70 days, will pay rates rather than council tax. The change will increase these thresholds to being available to let for at least 252 days and actually let for at least 182 days in any 12-month period. The change is intended to provide a clearer demonstration that the properties concerned are being let regularly as part of genuine holiday accommodation businesses making a substantial contribution to the local economy.

Empty Properties

The challenges in dealing with empty properties are wide and varied. Much of the responsibility for trying to address these problems falls to local authorities which have a range of legislative and more informal tools at their disposal.

Formal enforcement action is a last resort and many of the interventions local authorities make to deal with empty properties will be informal – such as providing advice, assistance and encouragement to property owners.

The Local Authority has a responsibility and the legal powers to bring empty homes into use, but it is neither practical nor desirable for them to be involved in every case.

Empty Dwelling Management Orders (EDMOs) enable councils to put an unoccupied privately owned home back into use powers ultimately allow councils to take over the management of a home for a period of up to seven years under certain circumstances where a negotiated solution is not possible.

There are also circumstances where councils can compulsorily purchase empty homes in order to get them back into use, to demolish them, or to replace them.

Local authorities can take enforcement action against property owners for a range of reasons, including where there are risks to public health (for example from vermin infestations), where there are statutory nuisances like accumulations of waste, where a building is dangerous and where other matters relating to health and safety are relevant.

In 2014, the Assembly passed a law giving local authorities discretion to charge a council tax premium on long-term empty homes. This premium, up to 100% of the standard rate of council tax, effectively means that owners of long-term empty properties may face their council tax bill being doubled. The intention was that owners would be spurred into action when they received this bigger bill.

The Welsh Government's Houses into Homes scheme, delivered by local authorities, provides loans to enable property owners to bring their property back into use. In many respects, the solutions to dealing with empty properties are as varied as the reasons why they are empty.

Dealing with empty homes can help address other housing problems through the provision of additional accommodation, thereby reducing pressures on waiting lists and providing homes on both a short and long-term basis. Empty Homes have been linked to wider issues around affordability in the report on Affordable Housing published in June 2008. Increased action on empty homes is also a theme of the new National Housing Strategy Sustainable Homes.

The social and environmental problems which may be tackled include:

- the restoration of confidence in an area where there may be a number of run-down houses;
- problems of rodent infestation, fly tipping and a general poor impression of an area;
- crime, which can include vandalism, anti-social behaviour and drug abuse; and
- visible improvements in the physical appearance of areas.

2. Effects on Carmarthenshire

An estimated 23,000 homes in Wales are empty or used as second homes and the seven authorities currently consulting have about 16,000 between them.

The number of dwellings in Carmarthenshire that fall into the category of Second Homes (dwellings "occupied periodically" is the term used in the guidance) is in the region of 1,060.

The data shows that there are significant differences between local authorities across Wales Gwynedd (20%), Pembrokeshire (16%), Anglesey (9%), Ceredigion (7%), Conwy (5%), Powys (5%) and Carmarthenshire (4%)

Swansea^[3] and Cardiff are the location of almost a quarter (22%) of all second homes. These 9 local authorities in Wales therefore have 88% of all second homes in Wales and are therefore located within either rural, coastal authorities, or in/around Wales's two main cities.



Evidence of the impacts of second homes

Research undertaken by the Welsh government in 2021 suggests that second homes can raise demand for houses and, thereby, drive an increase in local house prices. However, there is no unequivocal evidence quantifying just how much of an impact second homes have on house prices compared to other factors. This impact was thought to occur most commonly within particular localities or 'hotspots' that had a degree of prevalence.

Alongside house price inflation, the clearest direct impact of second homes was to reduce the housing stock. This was more easily quantifiable, with some localities having lost significant percentages of their housing stock to second homes of some kind.

The research found that the evidence base is relatively weaker in terms of broader impacts of second home ownership. Very few publications detailed the impact upon the Welsh language but does highlight aspects of the erosion of a sense of community. As well as the Welsh language, this included service decline, and the seasonality of economic and social life characterised by low-paid tourism employment in season, and periods of relative desertion during the off-seasons although, again, the limited evidence base needs to be noted.

Some publications have noted the positive benefits of second homes which are largely related to employment and economic contribution as a result of refurbishment or renovation and the spending of owners within the localities. However, more recent publications challenge the extent of this contribution, whilst it is also possible that such expenditure merely displaces (likely only some of) what primary homeowners would spend in the locality. A few publications and interviewees also noted that second homeowners can play a positive role in renovating derelict properties.

The growth of short-term lets (STLs - Airbnb type properties) both in rural areas and some cities was a cause for concern for a number of local authority personnel and wider stakeholders. However, the poor data available on the number and distribution of STL properties leads to difficulties quantifying this. The type of properties bought for STLs as well as their location was deemed more varied than second homes. Concentrations were thought to have emerged in areas hitherto unrelated to tourist or second home 'hotspots'.

The issues noted above it would be natural to deem that the service areas affected within the Council would be Planning, Housing and Revenues. However, the impact on decisions made in relation to second homes and empty properties are far reaching and would have an impact on other policies. Areas that need to be considered in the decision-making process in determining the best way forward in dealing with the concerns around second homes and empty properties are noted below:

Local Taxation - Council Tax Premium

- Empty Properties
- Second Homes

Affordability - Housing

- Housing Policy
- Affordable Housing
- Empty Properties
- Shortage of rental properties

Planning

- Change in WG Legislation / Regulation
- Material Consideration
- Impact on LDP Process

Tourism

- Tourism Levy
- Carmarthenshire: 1.5% holiday homes as proportion of residential
- Leisure Industry

Economic Development

- Economic Policy
- Carmarthenshire businesses
- Economic recovery

Welsh Language

- Welsh Language Policy to increase number of Welsh speakers

Net Zero Carbon

- Land use

Services

- Increase in services needed - eg waste, fly tipping
- Decrease in services where people leave the areas due to affordability issues - eg schools

3. A joined up approach to tackling the impact of second homes on the availability of affordable homes in our communities

i. Support - addressing affordability and availability of housing

Welsh Government at the end of 2021 were working with all Local Authorities in producing a National Empty Property Action Plan. This is intended to instil a strong focus on reducing the numbers of Empty Homes across Wales.

In line with the National Action Plan, it is viewed as a great opportunity to produce a new Empty Homes Delivery Plan, placing focus where it's needed, in line with national guidance.

Providing more affordable homes has been a strategic priority for the Council for a number of years. It is also recognised as a key driver of economic recovery and growth, creating jobs and supporting the development of strong sustainable communities. Bringing empty homes back into use is a vital part of the affordable housing programme and will continue to be so in the new Housing and Regeneration Delivery Plan

ii. Regulatory framework and system - covering planning law and the introduction of a statutory registration scheme for holiday accommodation

Approach

The Town and Country Planning (Use Classes) (Amendment) (Wales) Order 2022 made in September came into force (20/10/22).

The order amends the Town and Country Planning Act which provides that a change of use is not "development", and therefore does not require planning permission, where the former use and the new use are both within a same use class.

The order also introduces new use classes into the Act based on occupancy, set out below:

- class C3 to use of a "dwellinghouse" as a sole or main residence and occupied for more than 183 days in a calendar year.
 - **C3 Dwellinghouses** - this class is formed of 3 parts:
 - **C3(a)** covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
 - **C3(b)** up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.

- **C3(c)** allows for groups of people (up to six) living together as a single household to allow for those groupings that do not fall within the C4 HMO definition to be provided for, e.g. a small religious community may fall into this category as could a homeowner who is living with a lodger.

C5 which covers use of a dwellinghouse other than as a sole or main residence and occupied for 183 days or fewer in a calendar year.

C6 which covers use of a dwellinghouse for commercial short-term letting not longer than 31 days for each period of occupation.

Critically, the WG have also made changes to the permitted development rights legislation and allow movement between classes under permitted development rights, i.e so that planning consent is not required to move between the classes

Local authorities have the ability to remove permitted development rights, in an area, where they believe there is a case for doing so, to protect the characteristics of that area through an; "article 4 direction".

The net effect of the government's changes to the legislation framework is therefore to allow local authorities to utilise "article 4" to require planning permission to be sort for movement between the new change of class definitions.

Application

While the legislation now provides a framework for local authorities to "control" future change of use of dwellings in the new classes within an "article 4 "area, decisions within the planning framework must be based upon a case-by-case assessment of a material impact on the use of the land and in accordance with national and local policy.

WG have not issued guidance on the application for the new classes, they consider it a matter for local authorities to determine.

The criteria that would be applied for the planning determination will be critical and will need to be evidenced based as they are open to appeal by the Planning Inspectorate and must therefore be sound.

The use of an article 4 direction is likely to be controversial locally, subject to consultation and a 12-month lead in period to avoid paying compensation within an area. Concerns have been raised about the impact of a direction on market value and mobility and which are likely to prove grounds for challenge

An article 4 direction cannot be retrospectively applied and is therefore of use only in seeking to regulate future use

We have commissioned research on the impact of second homes to aid the development of the new LDP and that is inconclusive, it points to limited evidence that there may be

some small hotspots within the county where the second homes may be considered to have a material impact on the availability of housing stock. Further research is required to develop a model for policy in this area to provide a base for use within the Planning framework that is based on linguistic, economic, local housing need and wider impacts of the change of use in classification which would ultimately lead to the development of new policy in the this area.

The Policy can then be underpinned by more specific local supplementary guidance which would form a material consideration within the planning framework. It's important that any evidence and new policy is robust, as authorities will likely be challenged on the application of the new framework.

iii. A fairer contribution - using national and local taxation systems to ensure second home owners make a fair and effective contribution to the communities in which they buy

Under Council Tax law there is no such thing as a second home, but the term is commonly used to describe dwellings that are substantially furnished but “not anyone's sole or main residence”. Second homes / holiday homes as well as other dwellings that have for whatever reason, been left unoccupied but furnished, therefore come under the heading of 'Second Homes'.

In common with most authorities in Wales, Carmarthenshire currently has a policy of Nil Discount. The owner will therefore be liable to pay the 100% charge i.e. as though the dwelling were occupied by 2 or more adult residents.

The number of dwellings in Carmarthenshire that fall into the category of Second Homes (dwellings “occupied periodically” is the term used in the guidance) is in the region of 1,060.

Precise figures as to how many of these are genuine holiday homes and how many are other properties that have simply been left vacant but furnished, are not readily available, however, approximately 260 are chalets on holiday parks with over 200 having a restriction on “year-round” occupation arising from planning consent and would be exempt from any premium.

Based on the above, it is estimated there are around 860 furnished but unoccupied / occasionally used properties that could be in scope.

The provisions introduced from 1st April 2017 allow authorities to adopt a policy where the council tax payable on second homes could be increased up to a maximum of 300% from April 2023. If the maximum premium were adopted the liable person would be subject to 4 times the full occupied charge.

In order for a premium to apply to second homes a billing authority must make its first determination under section 12B at least one year before the beginning of the financial year to which the premium relates.

As with Long Term Voids, existing exemptions will continue to apply, as well as the additional exemptions shown in the table below.

Class of Dwelling	Definition	Application to:
Class 1	Dwellings being marketed for sale – time-limited for one year	Long-Term Voids & Second Homes
Class 2	Dwellings being marketed for let – time-limited for one year	Long-Term Voids & Second Homes
Class 3	Annexes forming part of, or being treated as part of, the main dwelling	Long-Term Voids & Second Homes
Class 4	Dwellings which would be someone's sole or main residence were they not residing in armed forces accommodation	Long-Term Voids & Second Homes
Class 5	Occupied caravan pitches and boat moorings	Second Homes
Class 6	Seasonal homes where planning conditions prohibit year-round occupation	Second Homes
Class 7	Job-related dwellings	Second Homes

Empty Properties

Housing:

Welsh Government at the end of 2021 were working with all Local Authorities in producing a National Empty Property Action Plan. This is intended to instil a strong focus on reducing the numbers of Empty Homes across Wales.

In line with the National Action Plan, it is viewed as a great opportunity to produce a new Empty Homes Delivery Plan, placing focus where it's needed, in line with national guidance.

For a Local Authority to be effective there must be a holistic, coherent approach to tackling empty properties. Each year, specific areas of high housing need are targeted, by contacting owners of empty properties, offering extensive advice, guidance and support with bringing these properties back into use.

Each department must have a clear understanding of its role and the roles of other colleagues in the process:

- Homes & Safer Communities (enforcement, grants / loans, RSL liaising / partnership approach, Performance Indicator PAM/013 & PAM/045)
- Revenue & Benefit (council tax information, discounts and premiums, debts, ownership details)
- Planning (enforcement, s106 agreements, planning applications)
- Building Control (enforcement, conversions work)
- Legal (advice and support, recovery of debt, enforcement)
- Regeneration (Town Centre improvements, links with private sector, funding opportunities)
- Public relations (publicise outcomes, human interest stories)

Council Tax:

Under the “standard” Council Tax scheme, when a dwelling becomes unoccupied and stands substantially unfurnished, there is an initial 6 months exemption period during which time there is no charge. Since 1st April 2020, once this exemption period expires (and provided no other exemption applies) a vacant property is then subject to a 100% charge.

At any given time, there are in the region of 2,310 dwellings in Carmarthenshire that are vacant.

Under the new provisions, a Long-Term Empty Dwelling is defined as a dwelling which is both unoccupied and substantially unfurnished for a continuous period of at least one year. NB: In determining whether a dwelling has been empty for one year, no account is to be taken of any period before 1 April 2016 even if a dwelling has been vacant for many years.

Existing exemptions will continue to apply, and any premium would only apply after the exemption expires. Amongst the significant number of existing exemptions are a number which relate to unoccupied dwellings, including:

- where the former resident (and owner) is in long-term residential care or hospital
- where a dwelling requires or is undergoing structural repair (exempt for up to one year)
- where the former resident (and owner) has died (exempt for up to six months after grant of probate or letters of administration).

Welsh Government has also introduced additional classes of exemption from premiums, see table (page 11), which have the potential for taking a significant number of empty dwellings out of scope.

Examples of potential impact of introducing / not introducing Tax Premiums

The following options are reviewed regarding introducing Council Tax premiums in relation to:

Long term Empty Dwellings	
Current data	The Indicative Number of Properties in Scope (exemptions not factored in) Void for less than 12 months: 1,004 Void for over 12 months: 1,310
Option 1	Retain current position and charge only the standard 100% for vacant dwellings.
Implications	<ul style="list-style-type: none">• No incentive to bring long term voids into use• Won't address the shortage of rental homes• Won't address the shortage of properties for sale / affordable houses• No additional revenue
Benefits	<ul style="list-style-type: none">• No additional administrative and staffing costs

Long term Empty Dwellings	
Option 2	Introduce premiums for dwellings that have been vacant for 12 months or more since 1st April 2016 and which are not otherwise exempt
Implications	<ul style="list-style-type: none"> • Can't be introduced overnight given that if a determination made in 2022/23 would potentially apply from April 2024 [a consultation exercise, an impact assessment, the democratic process and a statutory 12 months' notice period would need to apply before any such changes could be made. • There would be increased administrative and staffing costs; specifically, to verify exemption status, deter avoidance measures and recover the additional charges. • Increase in avoidance measure being applied by homeowners • Potential increase in bad debt • May attract unintended consequences from a regeneration perspective - would be local people would be discouraged to buy as they can't afford the market prices – locals out of the market
Benefits	<ul style="list-style-type: none"> • Direct impact on the Housing Policy • Gives a financial incentive for owners to bring long term voids back into use • Additional revenue once the consultation process has been followed – although difficult to estimate. • Improves rental market in the longer term • Improves the properties available for sale in the longer term • Stimulates the economy

Second homes / Holiday homes	
	Indicative Number of Properties in Scope is 861 (includes approximately 50 purpose-built chalets on holiday sites with no occupancy restriction)
Option 1	Retain current position of “nil discount” and continue to charge 100% for dwellings which are furnished but no one’s usual place of residence
Implications	<ul style="list-style-type: none"> • No incentive to bring dwellings that are occasionally used as second homes OR are unoccupied but standing furnished, into use as a normal place of residence • Direct impact on Housing Policy • No additional revenue streams • won’t help to address the shortage of rental home and properties for sale • Welsh language - Some areas Welsh language could be decimated
Benefits	<ul style="list-style-type: none"> • No negative impact on tourism 1300 self-catering accommodations – would not all go on market – not run of mill properties / incomers – wont encourage residential market for local people, too expensive? • encourage tourism – support supply chain – generates more business - residents benefits such as increase economy: pubs / small shops • No increase in administrative and staffing costs

Second homes / Holiday homes	
Option 2	Introduce a premium for all dwellings which are furnished but no one’s usual place of residence (but not otherwise exempt)
Implications	<ul style="list-style-type: none"> • Can’t be introduced overnight given that if a determination made in 2022/23 would potentially apply from April 2024 a consultation exercise, an impact assessment, the democratic process and a statutory 12 months’ notice period would need to apply before any such changes could be made. • Potential for a significant adverse effect on tourism • Cultural effect – local people may rely on the tourism business – income stream critical • Second homes are unevenly distributed across Carmarthenshire and the numbers shift quite dramatically between holiday destinations, the average for Carmarthenshire is 1.5% second homes as percentage of residential homes, limited benefit financially? • Potential move of business from Council Tax to NNDR • Selling properties may result in out of area – affordability issue for local residents • holiday accommodation has as much to do with economic policy as it does with housing policy. It could be argued that it promotes

	<p>prosperity in a way which is not the case for 'second homes', and that it contributes to the local economy, either because it is owned by local people or because visitors who stay in holiday lets spend money locally.</p> <ul style="list-style-type: none"> • Will give rise to an increase in administrative and staffing costs
Benefits	<ul style="list-style-type: none"> • Provides an incentive to bring dwellings that are occasionally used second homes OR are disused but standing furnished, into use as a normal place of residence • Provides an additional revenue stream

Second homes / Holiday homes

Option 3	As Option 2 but exclude properties that are purpose-built holiday homes on established holiday "sites" but not subject to planning conditions prohibiting year-round occupation.
Implications	<ul style="list-style-type: none"> • Tourism: Negative impact – reduced availability for place to stay. Increased costs of premium along with the Tourism levy could reduce numbers • will give rise to an increase in administrative and staffing costs • potential for a significant adverse effect on tourism albeit mitigated by purpose-built holiday chalets being excluded • holiday accommodation has as much to do with economic policy as it does with housing policy. It could be argued that it promotes prosperity in a way which is not the case for 'second homes', and that it contributes to the local economy, either because it is owned by local people or because visitors who stay in holiday lets spend money locally. It is difficult to think of 'second homes' as being part of a coherent economic strategy in the same way. Local facilities usage – gardeners, cleaners, food, small businesses, builders etc sustains local businesses back office - Knock on effect on Supply chain – meat producers – heartbeat of county sustains farms
Benefits	<p>Provides an incentive to bring dwellings that are occasionally used second homes OR are disused but standing furnished, into use as a normal place of residence, whilst excluding properties that are unsuitable for "year-round" occupancy</p> <p>Provides an additional revenue stream</p>

4. Recommendations

Cabinet is proposing to consider:

- Introducing a Council Tax Premium on long-term empty properties at
 - 50% for those which have been empty between 1 and 2 years.
 - The level of premium would then increase to 100% for those properties which have been empty for 2 years up to 5 years,
 - then a further increase to 200% for properties empty for 5 years or more.
- To charge a premium in respect of second homes, 50% for year 1 and then increased to 100% after the first year for all properties classified as a second home under Class B of the Council Tax (Prescribed Class of Dwelling) (Wales) Regulations 1998.

- consider conducting a consultation (draft consultation in Appendix 1 for consideration) and impact assessment on introducing council tax premiums on empty properties,
- consider conducting a consultation (draft consultation in Appendix 1 for consideration) and impact assessment on introducing council tax premiums on second homes / holiday homes

To address the wider issues further options that will need to be considered:

- Potential for scrutiny committee to do a deep dive on second homes, ahead of April 2023
- Set up a cross departmental officers group to coordinate activities, on planning, tax, affordable homes and tourism.
- Develop the evidence base for planning policy, decisions and enforcement
- Develop Supplementary guidance “Planning policy for second homes” for consultation
- Conduct a consultation exercise for planning

- The Local Authority recognises that empty properties can present a wide variety of issues, with responsibilities and duties lying across several teams.
 - Continue to ensure a consistent approach, the Local Authority has an operational Across Departmental Working Group, specifically designed to target problematic, long term empty properties. Within this group, there is representation from the Empty Homes Team, Revenues & Benefits, Planning Enforcement, Building Control and Public Health.
 - Report actions and outputs to CMT and Pre-Cabinet from the joint working group