

Appendix A

Spelthorne Borough Council Tax Second Home Premium section 11B(1D) and 11C (4) of the Local Government Finance Act 1992

Date Effective: 1 April 2027

Council Tax

Review Date: January 2030

Version 1

Purpose/Introduction:

Since 2013 the Government gave all councils the powers to charge additional council tax on long term empty properties after 2 years in accordance with section 11B (1D) and 11C (4) of the Local Government Finance Act 1992. The intention was to encourage owners to bring the properties back into the housing market for occupation to combat housing shortages nationwide whilst obtaining further council tax payments to fund local services.

Therefore, Spelthorne Council adopted the following policy whereupon additional premiums were levied on empty properties with effect from 1 April 2022:

If a property has been empty and unfurnished for two years or more, taxpayers are required to pay an empty home premium on top of the full Council Tax charge for your property.

From 1st April 2022 the following changes to the Council Tax premium took effect.

- Properties empty between 2 and 5 years 200% Council Tax will become payable
- Properties empty between 5 and 10 years 300% Council Tax will become payable
- Properties empty over 10 years 400% Council Tax will become payable

However, properties occupied periodically (commonly referred to as “second homes”) and defined as properties which were substantially furnished and had no resident (1.e. not a person’s sole or main residence) were exempted from these premiums.

Now with effect from 1 April 2025, the Government has provided additional powers to councils to charge a premium of 100% additional council tax on second homes.

Second Home Premium Government Guidance

With the additional powers granted, Spelthorne Council, in line with the majority of other authorities, intend to levy a 100% premium on second homes with effect from 1 April 2026.

Where individuals own multiple homes, but the homes are let out or occupied by someone as their main home, it will not be considered as a “second home” for the purposes of the premiums and as such will not be liable for the premium.

The council tax system provides a number of specific exemptions from council tax. The exempt classes are set out in the Council Tax (Exempt Dwellings) Order 1992.

A dwelling that is exempt from council tax is not liable for a premium. Where a dwelling is no longer eligible for an exemption but remains no one's sole or main residence, it may become liable for a premium. In the case of an empty home, it may become liable for a premium after it has been empty for a continuous period of 1 year.

This time frame begins when the dwelling first becomes empty rather than when an exemption ends. A second home may become liable for the premium as soon as the exemption ends.

Exceptions that apply to all premiums

There will be exceptions to the premiums and therefore from 1 April 2026 the following statutory exceptions where a premium will not apply will be:

Class E – Armed Forces Accommodation

Definition: Property would be the main home of someone who lives elsewhere in accommodation provided by the Secretary of State for Defence for the purposes of armed forces accommodation, and which for that individual is job related.

Prohibition: The exception will apply as long as the definition is met.

Class F – Annexes used as part of the main home

Definition: Property that forms part of a single property that includes another property that is being used by a resident of the other property as part of their main residence. (e.g. annexes used as part of main home)

Prohibition: The exception will apply as long as the definition is met.

Class G* - Actively marketed for sale

Definition: Property that is being marketed for sale of a freehold, or leasehold for a term of seven years or more, at a price that is reasonable for the sale of that property, or where an offer to purchase has been accepted but has not yet been completed.

Prohibition: The exception will apply for up to 1 year from the date it meets the definition and will end either when the 1 year period has ended, when the dwelling has been sold or when the dwelling is no longer actively marketed for sale. A further period under class G cannot apply unless the property has been sold to a different owner. See 'Discretionary exceptions' for details where the 1 year may be extended.

Class H*- Actively marketed for let

Definition: Property that is being marketed for let under a tenancy on terms and conditions, including the proposed rent that is reasonable for the letting of that property, or where an offer to rent has been accepted but the tenancy has not started.

Prohibition: The exception will apply for up to 1 year from the date it meets the definition and will end either when the 1 year period has ended, when the dwelling has been let or when the dwelling is no longer actively marketed for let. A further period under class H cannot apply unless the property has been let for a continuous period of at least 6 months since the exception last applied. See 'Discretionary exceptions' for details where the 1 year may be extended.

* Actively marketed for sale or let (Class G and Class H)

There are a number of factors the council will take into consideration when assessing whether a dwelling is being actively marketed for sale or let. These may include:

- whether the dwelling is clearly advertised for sale or let
- whether the dwelling is being marketed at a fair market value
- whether there are any artificial barriers on the dwelling preventing sale/let
- whether the dwelling has an Energy Performance Certificate (EPC)
- whether the owner is taking any other reasonable steps to market the dwelling for sale or let

Class I – Following Probate

Definition: Property that is or was previously under exempt class 'F' (following death).

Prohibition: The exception will apply for up to 1 year from the date probate is granted or letters of administration are issued, running concurrently with any class 'F' exemption. A further period under class I cannot apply unless the property has been subject to a further exempt class 'F' period. The exception ceases to apply if the property is transferred to the beneficiaries or is sold or let. See 'Discretionary exceptions' for details where the 1 year may be extended.

Exceptions that apply only to long term empty premises (substantially unfurnished)

Class M – Undergoing major repairs

Definition: Property that requires or is undergoing major repairs or undergoing structural alteration to render it habitable.

Prohibition: The exception will apply for up to 1 year from the date it meets the definition. Where major repairs are completed in less than 12 months, the

exception will still apply to the dwelling for up to 6 months or until the end of the 12 months, whichever is sooner. The exception cannot apply again unless the property has been sold. If the dwelling is substantially furnished and becomes a second home without a resident, then this exception will end. Exceptions that apply only to second home premiums (substantially furnished and no resident)

Class J – Job related homes

Definition: Property is unoccupied as the qualifying person is required to live elsewhere in England, Scotland or Wales in job related accommodation provided by a person's employer for the purposes of performing their work. It must be necessary for the duties of employment to live in that specific property (for example, headteachers for boarding schools who are required to live in school accommodation). Needing to be located nearer to a place of work would not be eligible. Your main or second home is provided by your employer and you need to live there for your job.

Prohibition: The exception will apply as long as the definition is met.

Class K – Caravan pitches and boat moorings

Definition: Property that consists of a pitch occupied by a caravan, or a mooring occupied by a boat.

Prohibition: The exception will apply as long as the definition is met.

Class L – Seasonal Homes

Definition: Property where occupation is restricted by a planning condition that:

- a) Prevents occupancy for a continuous period of at least 28 days in any one year; or
- b) specifies that the dwelling may be used for holiday accommodation only; or
- c) prevents occupancy as a person's sole or main residence.

Prohibition: The exception will apply as long as the definition is met.

Discretionary Exceptions:

Extension to time limited exceptions (Class G, H & I)

For the time limited statutory exceptions (Class, G, H & I) the Council may extend the exception period where it is clear from the specific circumstances that the taxpayer has genuinely been trying to bring the property back in to use as a sole/main residence throughout the whole exception period. In deciding the Council will consider:

- A local professional agent with specialist knowledge of the locality must have been engaged throughout the original exception period.
- Whether any accepted offer of sale(s) has fallen through during the exception period. If yes, what was the reason the sale(s) did not complete?
- Have any rejected offers to purchase or rent the property been received? If Yes - why were those offers refused?.
- Was the original and current sale price or rental in line with sale or rental prices for similar properties in the locality? Has action been taken to reduce the price/rental ?

- Is the property restricted for sale/let only to certain demographics (for example, retirement properties above a certain age)
- Has the property been put up for sale by public auction?
- Has there been a genuine expression of interest in transferring management of a property to the Council with a view to letting the property to local people with housing needs?

For those owners who are experiencing particular legal or technical issues which is preventing the sale or letting of the property

- Is there a legal difficulty or issue which is preventing the sale or letting of the property? A Solicitor's or Legal Conveyancer's letter should be produced in evidence detailing the reasons preventing sale or letting.
- Is a sale or letting being delayed by the actions of a Public Body? Full details must be provided.

Any extension will be time limited based on the specific circumstances and will be for a maximum of up to twelve months. Only one extension will be considered.

Extensions will not generally apply where major repairs or undergoing structural alteration overrun or take longer than twelve months.

Awaiting a planning decision or appeal will not be considered as reason to grant an extension.

Other Exceptions

An exception may also be applied at the discretion of the council in other circumstances where the taxpayer has made their best endeavours to bring the property back in to use as a sole/main residence and/or the reason it is unoccupied is exceptional and beyond their control. The award of an exception under this criterion is likely to be the exception rather than the rule. Awaiting a planning decision or appeal will not be considered as reason to grant an exception.

Change in Circumstances

The Council may need to revise the decision to grant an exception to the Premium if it becomes aware that the circumstances of an applicant have materially changed. Individuals must immediately advise the Council of any change in circumstances affecting the decision within 21 days of the change. Failure to do so may result in the exception being revoked in full.

Appeals

If an individual believes they have been inappropriately charged a premium on their dwelling, they should contact us.

If the individuals are not satisfied with our response, they may be able to appeal to the Valuation Tribunal.