

Meeting Cabinet
Portfolio Area Environment & Performance
Date 12 March 2025



HIGH STREET RENTAL AUCTIONS IN STEVENAGE

KEY DECISION

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1 PURPOSE

- 1.1 To provide Members with an overview of the Government's new High Street Rental Auctions process.
- 1.2 To provide Members with an outline of how a consultation process would operate in Stevenage with regard to designated High Street Rental Auctions areas.

2 RECOMMENDATIONS

That Cabinet:

- 2.1 Note the content and detail relating to High Street Rental Auctions and how they would be applied in Stevenage.
- 2.2 Agree to authorise a future consultation on designated areas for High Street Rental Auctions in Stevenage, for a minimum of 28 days in accordance with Regulations.
- 2.3 Note that the comments of the Planning & Development Committee will be sought and fed back to Cabinet.

3 BACKGROUND

- 3.1 From December 2, 2024, local authorities in England will be able to hold high street rental auctions to let vacant high street and town centre properties without requiring the consent of the owner or any superior landlords or mortgagees. The Government states that councils will be handed these new powers "to breathe new life back into high streets and transform long-term empty shops".

Legislation

- 3.2 High Street Rental Auctions, a new power for local authorities to require landlords to rent out persistently vacant commercial properties to new tenants such as local businesses or community groups, were introduced as part of the Levelling Up and Regeneration Act 2023
<https://www.legislation.gov.uk/ukpga/2023/55/enacted>.
- 3.3 Part 10 of the Act sets out the framework for the power, and further details are defined in the Local Authorities (Rental Auctions etc.) (England) and Town and Country Planning (General Permitted Development) (Amendment) Regulations 2024.¹

High Street Use

- 3.4 Central to the high street rental auction regime is the concept of "high street use". High street use is not confined to retail. Instead, it is given a very wide definition similar to, but wider than, the commercial, business and service use Class E. It includes (but is not limited to) uses such as shops, offices, restaurants / cafés / bars, public entertainment, community halls and manufacturing.

¹ The Local Authorities (Rental Auctions) (England) and Town and Country Planning (General Permitted Development) (Amendment) Regulations 2024 (legislation.gov.uk)

Premises in scope for High Street Rental Auction

3.5 To be within scope of the local authority's high street rental auction powers, premises must:

- (i) be situated on a designated high street or in a designated town centre. The local authority has power to designate a street as a high street and/or an area as a town centre where they consider them important to the local economy because of a concentration of high street uses;
- (ii) be considered by the local authority to be suitable for a high street use;
- (iii) have been unoccupied for the whole of the immediately preceding year or 366 days in the immediately preceding two years (the vacancy condition). A state of affairs will not amount to occupation unless the occupation is substantial, sustained and involves the regular presence of people at the premises. Time spent vacant before the provisions come into force still counts.
- (iv) be such that the local authority is satisfied that occupation of the premises for a suitable high street use would be beneficial to the local economy, society or environment (the local benefit condition).

3.6 If conditions (i) and (ii) are met, the premises are qualifying high street premises. Warehouses are specifically excluded from being qualifying high street premises and so are out of scope.

Costs

3.7 The local authority has the option of requiring the successful bidder to pay for the searches, survey and its legal costs incurred preparing the auction pack, including the agreement for lease and lease. The landlord will have to bear its own costs, most notably the cost of any works deemed necessary to bring the premises up to the minimum standard.

4. REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

Recommendation 2.1: That Cabinet note the content and detail relating to High Street Rental Auctions and how they would be applied in Stevenage.

Non-Statutory Guidance

<https://www.gov.uk/government/publications/high-street-rental-auctions-non-statutory-guidance/high-street-rental-auctions-non-statutory-guidance>

- 4.1 Non-statutory guidance explains High Street Rental Auctions in detail from start to finish and should be used to guide interested parties through the process. It is for local authorities concerned about vacant commercial premises in their area, commercial landlords and their lenders, businesses and community groups seeking a commercial space and commercial agents who may be responsible for running a High Street Rental Auction on behalf of a local authority.
- 4.2 The High Street Rental Auction process is expected to take 22 to 24 weeks from initiation to completion. The stages and timings are summarised below.

Considerations for using a High Street Rental Auction

- 4.3 High Street Rental Auctions will provide local authorities with a strong tool to use in places where vacancy rates are a problem and where there is little cooperation between landlords and local authorities, however, they will not be applicable in all cases of vacant high street premises.
- 4.4 When considering whether a High Street Rental Auction will be appropriate, a local authority should consider whether the specific premises in question meets the requirements of the legislation, as well as whether alternatives to High Street Rental Auctions might be more appropriate.

Steps prior to using a High Street Rental Auction

- 4.5 Once satisfied that a High Street Rental Auction is the right course of action to take, a local authority must take several preliminary actions before beginning the process:
- Designating a street or area where a High Street Rental Auction can be used, including a 28-day minimum community engagement period;
 - Satisfying the vacancy condition and local benefit condition;
 - Obtaining information about the premises in question (local authorities may want to capture this information in a vacancy register);
 - Engaging with landlords to encourage cooperation between parties; and
 - Surveying the premises to assess the suitable high street use and/or the works needed for the premises to reach the Minimum Standard.

Using a High Street Rental Auction

- 4.6 The High Street Rental Auction Process begins with a 10-to-12-week Notice Period and then a 12-week Auction Period.

Notice Period

- 4.7 The Notice Period begins with a local authority serving an initial notice on the landlord of premises they have identified as eligible for a High Street Rental Auction. The landlord will then have the chance to make their own arrangements to enter into a tenancy, if this tenancy begins within 8 weeks of the serving of the initial notice and provided, they meet certain conditions. If the landlord fails to enter into such a tenancy, the local authority may serve a final notice informing the landlord of the local authority's intention to run a High Street Rental Auction in relation to the premises. The landlord has the chance to serve a counter-notice, objecting to the final notice, and appeal. Assuming the final notice is not withdrawn by the local authority following counter-notice, or successfully appealed, the process will then move to the Auction Period.

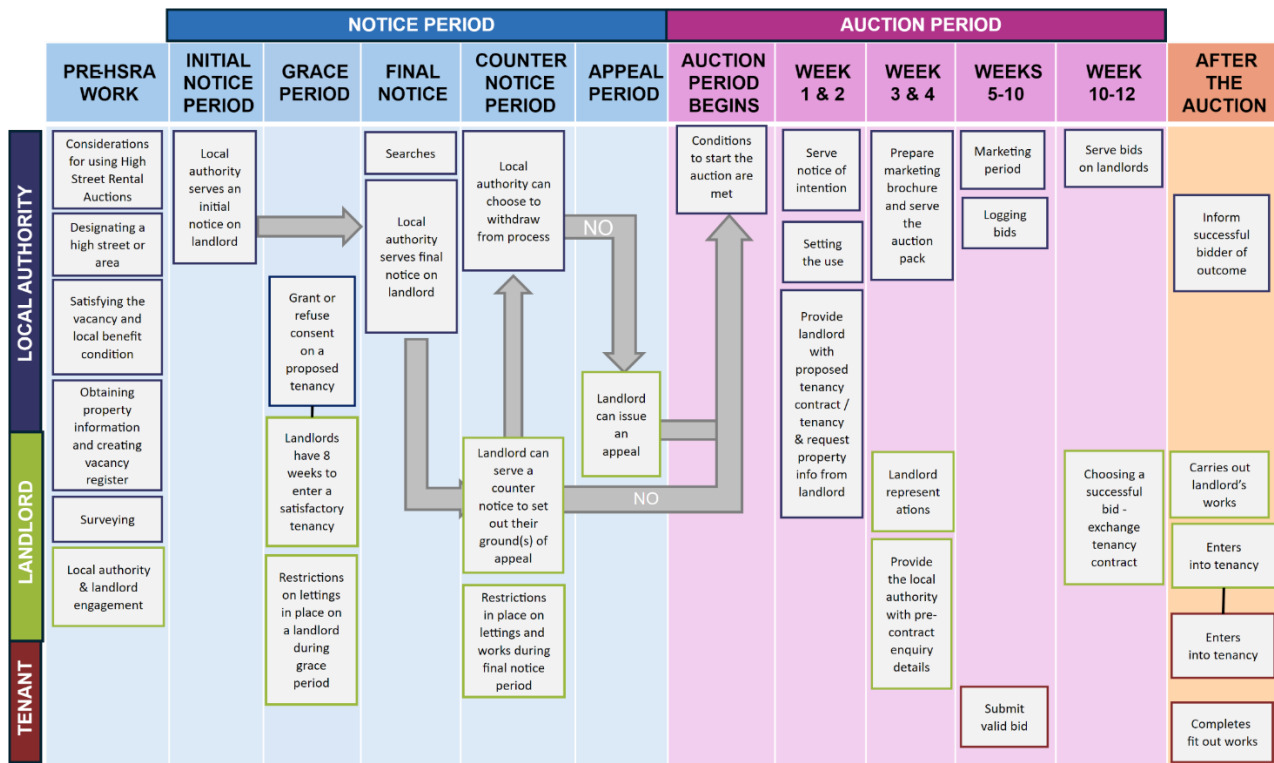
Auction Period

- 4.8 The local authority then has 12 weeks to:
- (1) auction the premises and
 - (2) complete the tenancy contract.
- 4.9 During weeks 1 to 4 of the Auction Period the local authority and landlord should engage with each other, with the landlord being required to provide information about the premises and being afforded the opportunity to make representations on the proposed terms of the tenancy contract and tenancy, so that the auction pack can be created. The tenancy contract and tenancy, along with several other documents, will make up the auction pack. A marketing period (operating during weeks 5 to 9 at a minimum) follows where interested parties can register their bid with the local authority. In weeks 10 to 11 of the Auction Period the local authority must serve the bids on the landlord before a successful bidder is chosen. The auction process concludes when a tenancy contract is exchanged between the successful bidder and the landlord.

After the Auction

- 4.10 The successful bidder at auction will enter into two legal agreements with the landlord. The first is the tenancy contract, which governs the landlord's required works prior to the tenancy commencing, and the second is the tenancy itself, which will set out the specific obligations on the tenant and landlord during the term of the tenancy.
- 4.11 Following completion of the landlord's works, the tenancy is granted.

Figure 1. High Street Rental Auctions Process Flowchart.



Other Considerations

4.12 Other considerations include:

- Landlord carries out works to the property i.e. within 3 months unless otherwise agreed with local authority.
- Fit out works will still be at tenants' expense and open accordingly.
- There are protections on pubs / alterations cannot be made without landlord approval.
- 4 week rent free period.
- Landlord to serve notice where required.
- The tenant will need to notify local authority if there is a change in use under permitted development e.g., change from a shop to a restaurant. If any changes made under permitted development, must revert back to High Street Rental Auction (HSRA) process.
- Any new tenancy agreements do not have to follow the HSRA process.
- Upfront costs of process borne by the local authority and to recover under relevant guidance / Government funds. Landlord costs only relate to repair works to make property suitable to let (unless it is not viable to do so e.g. significant fire or water damage).
- It will generally cost the Council £5,000 per auction process.
- Councils will have powers to gain entry (14 days' notice) in order to survey, but local authority must make sure property is secure once survey has been completed.

- The landlord will need to be aware that through the HSRA process there is a risk a tenancy secured can be at a lower rent than what they are seeking (even in cases where there are residential properties above a shop).
- The Government will publish an online tool on dealing with the HSRA process.
- There will also be funding from Government to help with rolling out the HSRA programme.

Planning Use Class / Permitted Development Rights

- 4.13 The Permitted Development Right for suitable high street use that supports the policy should be relied upon if the building's extant planning use and the proposed use of the successful bid are not in the same planning use class.
- 4.14 As noted above, in the majority of cases, it is expected that the existing planning use and proposed planning use of the building will fall within use Class E, a broad use class that includes most commercial, business and service use(s), such as shops, cafes, or gyms. In these cases, no change of use requiring planning permission will occur and the Permitted Development Right for suitable high street will not need to be engaged.
- 4.15 The Permitted Development Right for suitable high street allows for the change of use of a building which is a qualifying high street premises. The permitted development right does not apply in military explosive storage areas or safety hazard areas. The local authority needs to inform the local planning authority of:
- a. the suitable high street use for which the premises will be used;
 - b. the date on which the use will commence; and
 - c. the date on which the use will cease.
- 4.16 The date on which the use will commence ((b) above) will arise once the tenancy is granted and the tenant has assumed occupation of the premises. The tenancy contract obliges the landlord to serve notice on the local authority as soon as the landlord's works are complete (the completion of the landlord's works then triggers the grant of the tenancy). This notification should then allow the local authority to notify the local planning authority of the date on which the use will commence under the tenancy.
- 4.17 The tenant should also ensure this step has been completed by the local authority to make sure the use of the premises is legal for the duration of the tenancy.
- 4.18 Any change of use permitted through the Permitted Development Right for suitable high street use only applies for the duration of the High Street Rental Auction tenancy, and the building's planning use will revert at the end of the tenancy.

Why is Stevenage Borough Council considering designating areas for HSRA

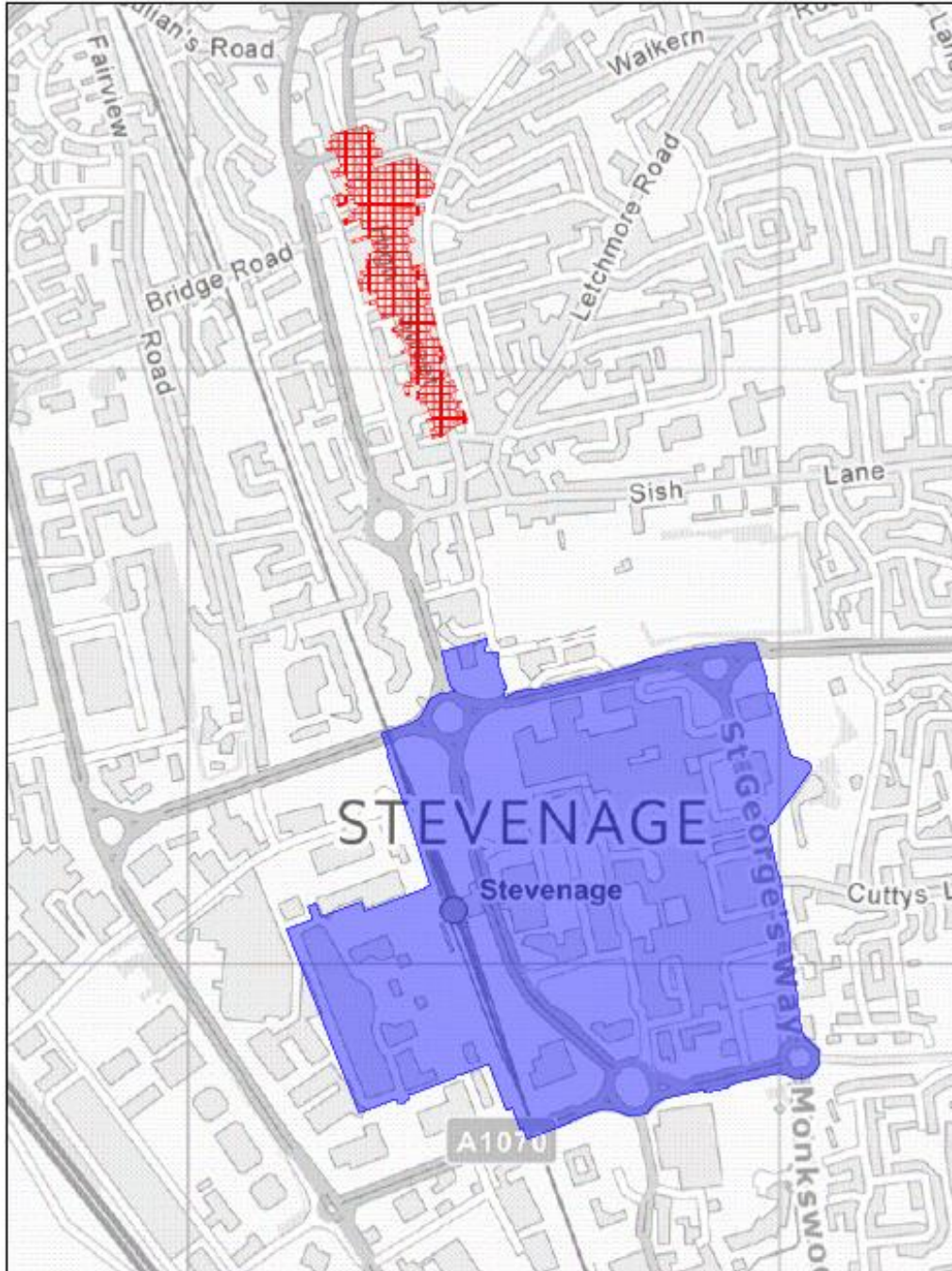
- 4.19 A summary of reasons why HSRA is beneficial include:
- Its purpose is to bring life back into the High Street / national renewal / community support / taskforce for regeneration.
 - Issue of blight from empty shops (where they have been empty for 1+ years)
 - One of the solutions to help deliver revitalisation of the High Street.
 - Part of a suite of initiatives such as Business Improvement District / Business Rate Reform / initiatives to tackle crime along with community right to buy initiatives.
 - Engagement with the local community around the new powers to deliver change.
- 4.20 It is important to note that the High Street Rental Auctions regime should be viewed as more of a “last resort” and as an incentive for landlords to maintain occupied properties that are in meaningful use. The HSRA legislation is designed to engage landlords and is a power that could be imposed to ensure any vacant properties or properties at the risk of falling into vacancy, have a mechanism that can help to bring them back into meaningful use.
- 4.21 HSRA is a tool that could be used to address High Street vacancy but not one that definitely will be used. It is difficult to determine, at this early stage, the level of requirement we will have in reality for HSRA in Stevenage.
- 4.22 While designation of High Street Rental Auction areas is not a statutory designation, officers are of the view that this would be a good opportunity to tackle the problem regarding vacant High Street properties in the town and issues regarding private landowners.
- 4.23 Designation could also provide a deterrent for landlords to keep their premises vacant for long periods of time and encourage them to engage with the Council in a proactive manner.

Recommendation 2.2: That Cabinet agree to authorise a future consultation on designated areas for High Street Rental Auctions in Stevenage, for a minimum of 28 days in accordance with Regulations.

- 4.24 The process of designating High Street Rental Auction areas involves public consultation on the designated areas, for a minimum of 28 days. Once the designated areas have been agreed, the process as outlined in Figure 1 will apply to premises within those designated areas.
- 4.25 For any future consultation process (dates to be determined), the Council is proposing to designate the Town Centre and Old Town High Street areas as designated for High Street Rental Auctions. This complies with the boundary areas relating to Local Plan Policies TC1 (Town Centre) and TC9 (High Street Shopping Area).
- 4.26 Following the consultation process and approval of designated High Street Rental Auctions areas, the Council’s Estates team will be asked to survey those

properties within the designated areas as per the process outlined in above and so that we have an up-to-date record of properties in each area.

Local Plan - Policies TC1 and TC9



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Recommendation 2.3: That Cabinet note that the comments of the Planning & Development Committee will be sought and fed back to Cabinet.

- 4.27 The Planning & Development Committee, via the Chair and Vice Chair, have been circulated this Cabinet Report in advance of the Cabinet meeting.
- 4.28 Any feedback from Planning & Development Committee Members will be taken into consideration in the Cabinet's approval of this Report's recommendations.

5 IMPLICATIONS

Financial Implications

- 5.1 The HSRA process will cost the Council £5,000 per auction process. The overall financial cost will ultimately depend on the level of interest, support and take up the HSRA scheme generates over time.
- 5.2 The local authority has the option of requiring the successful bidder to pay for the searches, survey and its legal costs incurred preparing the auction pack, including the agreement for lease and lease. The landlord will have to bear its own costs, most notably the cost of any works deemed necessary to bring the premises up to the minimum standard.
- 5.3 Other than staff costs in terms on both consulting upon the HSRA areas and reporting the HSRA process as it develops with the Estates team, there will be no significant staff and resourcing costs associated with the HSRA process.
- 5.4 There could be legitimate concerns from current landlords, for example the potential costs involved to refurbish and revive properties that are not in use. It should be noted that the High Street Rental Auctions regime should be viewed as more of a “last resort” and as an incentive for landlords to maintain occupied properties that are in meaningful use. The HSRA is more of a power that could be imposed to ensure any vacant properties or properties at the risk of falling into vacancy, have a mechanism that can help to bring them back into meaningful use.
- 5.5 Should the HSRA be imposed, there is potential to gain funding from numerous sources, for example grant funding or bidding from landlords for any required funding.

Legal Implications

- 5.6 The successful bidder at auction will enter into two legal agreements with the landlord. The first is the tenancy contract, which governs the landlord’s required works prior to the tenancy commencing, and the second is the tenancy itself, which will set out the specific obligations on the tenant and landlord during the term of the tenancy.
- 5.7 The local authority has the option of requiring the successful bidder to pay for the searches, survey and its legal costs incurred preparing the auction pack, including the agreement for lease and lease. The landlord will have to bear its own costs, most notably the cost of any works deemed necessary to bring the premises up to the minimum standard.
- 5.8 Officers will seek legal advice as required, as the HSRA process develops over time.

Risk Implications

- 5.9 The risk implications, at this early stage, are difficult to determine given that the HSRA process is more of a tool that could be used, rather than one that will be used. There could be a risk that the legal requirements are not adhered to and the due HSRA process not followed; this could cause delays to securing occupancy for vacant premises and therefore jeopardise the vitality of our High Streets. There could also be potential risks concerning the perception of High Street properties in Stevenage.
- 5.10 There is a potential risk for the landlord if a property is vacant, which would have a large impact on the overall process as outlined in Figure 1. The landlord is required to carry out tasks which may not fit the process as outlined or desired.
- 5.11 There is a risk that, due to the complex nature of the HSRA process, that steps in the process could be missed or not covered adequately. The Planning and Estates teams will work closely to ensure that the process is clearly communicated to interested parties, as part of the consultation.

Planning Implications

- 5.12 The HSRA process will support policies designated in the adopted Stevenage Borough Local Plan (2019) and emerging Local Plan Review and Partial Update, which is scheduled to be submitted to the Secretary of State in Spring 2025.
- 5.13 The HSRA process will complement the town's regeneration plans and align with the Local Plan Town Centre policies.

Economic Implications

- 5.14 Designation could also provide a deterrent for landlords to keep their premises vacant for long periods of time and encourage them to engage with the Council in a proactive manner.
- 5.15 The HSRA process will provide greater certainty in ensuring that the High Street areas of Stevenage provide a wide range of occupied units that offer a variety of amenities and services to the population of Stevenage workers, residents and visitors.
- 5.16 This in turn, alongside a suite of initiatives including Business Improvement Districts and Business Rate Reform, will stimulate investment into local services and help to expand an already growing economy in the town, further enhancing its strategic economic position in the Golden Triangle area between London, Cambridge and Oxford.

Community Safety Implications

- 5.17 The community could benefit from the HSRA process with a fully vibrant High Street meaning there would be a higher degree of natural surveillance and related initiatives to tackle crime.