

Responses to questions raised at Special Council Mica Meeting held on the 24th February 2022.

13th April 2022.

Introduction/Background.

At the Special Council Mica Meeting held on 24th February 2022, the members raised a range of questions. It was agreed at the meeting that a comprehensive written response would be prepared, and same is now appended hereunder. In addition, it was agreed that the responses would be published on the Council website.

The questions have been answered based on the information available to the Council at this time. The Council is one stakeholder in the overall process. In addition to homeowners, the other stakeholders include:

- the Department of Housing, Local Government and Heritage.
- Engineers Ireland.
- the Engineer appointed by the homeowner, as well as other technical advisors, laboratories, and geologists, etc. engaged by the Engineer on behalf of the homeowner,
- the contractor appointed by the homeowner to carry out the remedial works.

Each stakeholder has different responsibilities under the current scheme, as outlined in the current regulations. In order to accomplish the final objective of getting homes repaired, it is important that each person or body involved carry out their respective functions properly and in a timely manner.

In addition to the above, the Housing Agency will have a core role under the new Enhanced Scheme which is expected to be rolled out later this

year. The Enhanced Scheme is expected to reduce and simplify some of the processes that frustrate and lengthen the delivery process on the existing scheme. Meanwhile the Council, homeowners and others involved are held to the stricter rules and conditions of the old scheme. It is accepted that the rules are onerous. However, they are the rules set by Government for the scheme and the Council who are administering the scheme on behalf of the Government are being held to these rules and have to account accordingly. Likewise, the applicants will be required to follow these rules until they are changed.

The overall goal of the Council is to see homes repaired. The current scheme, as cumbersome as it is, is a way to get this done. This requires a degree of acceptance and working together to get successful outcomes and homes repaired.

Support/Assistance/FAQ's

1. Can the Council compile a FAQ document which would provide an easy access to the list of questions raised today and publish it on the Council's web site.

Yes - This FAQ document will be included on the Defective Concrete Blocks webpage on the Councils website along with all the other information that is already available.

2. Can a dedicated helpline be set up in respect of the Defective Concrete Blocks Grant Scheme? Can in-person meetings be arranged with applicants to deal with specific queries on their applications?

Homeowners have various options available for guidance and assistance depending on the nature of the query. The Council can assist with some

of these queries. Other persons / bodies are responsible for certain elements of the process. Examples are outlined below.

Technical Advice:

- The Defective Concrete Blocks Grant Scheme was set up as an Engineer led Scheme. This is a significant undertaking for Engineers to control and manage the delivery of a complicated and detailed €2 billion programme of works that interacts very closely with family lives. It is much more complicated than delivering an equivalent €2 billion capital project on a single site. It requires significant resourcing to deliver successfully. It covers a wide body of work from design to ensuring quality materials and workmanship in the building work including site inspections and certification. In this regard, Engineers Ireland set up a list of competent engineers specifically for the purpose of advising and assisting affected homeowners, in relation to the various technical issues including the arranging of testing, determining the most appropriate remedial option under the terms of the scheme and IS465 standard, as well as the supervision and certification of remedial works. The Engineer, appointed by the homeowner, is the first point of contact for the homeowner for any technical information.
- It is not appropriate for Council staff to become an intermediary between homeowners and the Engineer that the homeowner has engaged.
- The Council normally issues any further information requests (in relation to technical matters) to the homeowner with a copy to the homeowner's Engineer, so that both are kept up to date.

Application process:

- In addition to detailed guidance available on the Councils website, staff are available via a helpline team on 0749153900,

to answer queries, to advise applicants in relation to the terms of the scheme, application requirements, the application process, and so forth.

- The Council can consider further assistance in this regard, if required. It is important to note that the Council's helpline staff can only assist with matters which the Council has responsibility for and cannot assist with queries which are the responsibility of other stakeholders to resolve.
- Scanning facilities are also available in a number of local libraries should applicants require assistance with same. These facilities are available in the Central Library Letterkenny, Carndonagh Community Library, Buncrana Community Library, Twin Towns Community Library, Bundoran Community Library, Leabharlann Phobail Ghaoth Dobhair and Leabharlann Phobail na Rosann
- The Council will consider the need for face to face meetings with applicants on a case by case basis depending on the nature of the issue to be dealt with.

Payment of Engineer's Fees – New Regulations

3. When will people get their Engineers Fees recouped, where they haven't yet got Stage 1 approval?

There are 293 homeowners in this category, all of which have been contacted by the Council. 250 of these have sent in the relevant bank documentation. 238 have been paid and a further 12 will be paid this week. The remainder will be paid as soon as the relevant bank documentation is received.

The recoupment process is straightforward, and homeowners can expect to receive payments roughly 1 week after the Council receives the homeowners relevant bank details and same have been verified.

For clarification, the recoupment is 90% of approved costs subject to a maximum of €6,300.00. There are no provisions in the new Regulations to refund the 10% balance to existing approved applicants.

Emergency Payment – New Regulations

4. Need clarity on the emergency payment – does applicant need to be Stage 1 approved?

Yes – In accordance with the regulations, costs are only recoupable once a homeowner has received a Stage 1 - Confirmation of Eligibility.

Homeowners who receive a Stage 1 approval under the scheme are now allowed to recoup 90% of the maximum allowable cost of €5,555 under the scheme where such works have been specified by the homeowner's Engineer as part of the building condition assessment process or any supplementary building condition assessment report submitted to the local authority. In addition, the works must be completed before the recoupment can be made.

5. Is there any flexibility to access the emergency fund for applications that are not Stage 1 approved?

No – In accordance with the regulations, costs are only recoupable once a homeowner has received a Stage 1 - Confirmation of Eligibility.

6. Is the Council now accepting applications for the emergency payment?

The initial priority was to get fees paid to applicants awaiting Stage 1 approval. As outlined in an earlier response above, this is well advanced and almost complete. In relation to the Essential Immediate Repairs Works payment, the Council is currently finalising changes to our IT System that will enable homeowners to make application online for same. This system update will be finalised by Monday 25th April 2022. The making of the application to the Council occurs after the works have been completed and certified by the engineer and contractor and that is not being delayed due to the Council IT System being developed.

7. Can we receive assurance that emergency funding will not be subjected to additional bureaucracy or red tape and that the applications will be expedited and dealt with efficiency and quickly due to time?

In relation to the "additional bureaucracy or red tape", the Council only seeks information that is relevant and necessary in the processing of the application. The information that is sought is in line with Department guidelines and is necessary when administering public funds.

The amended regulations state that the following is required when making application for recoupment of the essential immediate repair work costs.

- a supplementary Building Condition Assessment or the original Building Condition Assessment Report, as either must reference the emergency works to be carried out.
- a written statement from the contractor and the competent Engineer that the essential immediate repair works to the relevant dwelling concerned for which a payment is being sought have been completed to their satisfaction;

- an invoice prepared by the contractor concerned, detailing the qualifying works carried out by the contractor and the cost of each element of such works, in respect of which the scheme participant is seeking payment;
- relevant tax clearance details for the contractor, Engineer or applicant, as the case may be,

Please also find attached at **Appendix 1** a copy of the guidance that the Council has received from the Department, in relation to the changes to the existing scheme. There is a specific section within same that deals with the Essential Immediate Repair Works Payments.

Processing of Applications under Defective Concrete Blocks Grant Scheme.

8. Are DCC currently receiving new applications under the current '90/10' Scheme at the moment?

Yes, applications are still being accepted under the existing '90/10' scheme. It should be noted that while storage costs are a qualifying cost under the current '90/10' scheme, there is no provision under the current scheme for accommodation costs.

9. When can people book tests with Engineers in confidence and in the knowledge that the costs incurred by them will be covered?

The older 2020 Regulations require that a homeowner must have received a Stage 1 confirmation of eligibility before the cost of the Engineers fees for their I.S. 465 report can be recouped.

However, the recent 2022 Regulations waives the requirement for a Stage 1 confirmation of eligibility to be in place prior to recoupment of

the cost of the Engineer's fees, for homeowners whose applications were received by the local authority before the 24 February 2022.

Therefore, if you applied prior to 24th February 2022, and you have a valid application, you can get your Stage 1 fees recouped. If you applied on or after 24th February 2022, you will have to wait until you are Stage 1 approved, before you can recoup these fees.

10. Can the contractors be paid directly from the Council rather than the homeowner under the current Scheme?

No – The Council must issue grant payments directly to the applicant. All payments are made to the applicant and payment arrangements between the applicant and their Engineer or contractors is a matter for the applicant. At Stage 3, payment can only be made for Engineer's fees and/or works completed. No advance payments can be made for supplies.

It is most important that payment requests are accompanied by the required supporting information. Otherwise, they are either not paid or partially paid. This is already leading to significant difficulties, frustration and extra work for everyone involved.

The New Enhanced Defective Concrete Blocks Scheme.

11. When will details of the new Scheme be announced? Are foundations going to be covered under the Enhanced Scheme?

The Council is awaiting further details in this regard. The Department has indicated that legislation will be drafted before the summer. Council staff in the Defective Concrete Blocks Grant Scheme office are not in a position to respond to any queries on what may or may not be included

in the Enhanced Scheme and/or any potential transition arrangements – it is not the case that staff are being unhelpful but rather they do not have the information.

12. Will the Mica office be adequately resourced when there is an upsurge in applications?

The Government announced the new Enhanced DCB Grant Scheme in November 2021, and the County Council was notified regarding the outline of the new Enhanced Scheme at the time of the public launch of the scheme.

The Enhanced Scheme introduces a new method of processing applications and it is understood that the Housing Agency will take on a very significant role in the processing of applications, determination of the actual remedial measures and the size of the grant to be awarded to applicants.

The role of the Council will be greatly reduced on the Enhanced Scheme and the specific role being asked of the Council has not been clearly set out or agreed at this time. The role of the Council is expected to be an administrative role and the Council will not be providing any engineering staff on the Enhanced Scheme.

It will be important that the role of the Council is clearly defined, understood and resourced sufficiently going forward. It is expected that the scheme will run for many years and this needs to be planned accordingly.

Based on what we know at this time, the Council will be asked to accept applications from homeowners, validate aspects of the application to confirm that the owner is eligible to apply and then pass the application

to the Housing Agency for assessment and determination of the remedial measures and the amount of the grant to be awarded.

The Council will be willing to resource and fully deliver on the tasks in the overall process that it agrees to undertake. The Council will develop a programme to facilitate applicants with queries or assistance on the tasks that the Council is responsible for.

The Council will not be in a position to address queries that relate to the tasks that are the responsibility of other persons or bodies and it is important that they too have the required resources to respond to relevant queries.

Social Houses affected by Defective Blocks.

13. Will remediation works be carried out by the DCC and what input will there be from tenants?

Yes – The Council will arrange for remediation works in respect of Council owned houses. The Department will be announcing a Scheme for Social Houses around the same time as the Enhanced Scheme for private homeowners. The Council will engage with its tenants at the time when it is relevant and appropriate to do so. This will form a significant part of the work programme in due course.

14. Is a four year programme for the remediation of houses realistic?

The Council has sought approval to set up a Special Project Delivery Team, with resources at a scale that would enable a Programme to be completed within an estimated 4 year period. The actual timeline for remediation will be dependent upon those resources being approved,

and in place. Where lesser resources are approved, the Programme will take longer.

15. How will the social houses be remediated? When and how will they be done?

This will be determined by the Special Project Delivery Team in line with the terms of the Scheme to be introduced and in consultation with the Department.

16. Have the Council any idea when they can expect an update on the social housing scheme.

It is expected that the Department will be announcing a Scheme for Social Houses around the same time as the Enhanced Scheme for private homeowners.

Building Control / Standards / Planning Matters.

17. What testing is being carried out on blocks at present and what are the Regulatory bodies doing to ensure that mica infested blocks are not entering the market place now?

Ireland's National Market Surveillance programme for 2021, published on the website of the European Commission, ([National Market Surveillance Programme 2021](#)) includes for market surveillance of construction products generated from quarries and pits, specifically products from Area Code 24 (aggregates) with a particular focus on:

- a. Aggregates for concrete (EN 12620),
- b. Bituminous mixtures (EN13043),
- c. Aggregate for mortar (EN13139)
- d. Unbound and hydraulically bound materials (EN 13242).

This campaign, carried out by the National Building Control and Market Surveillance Office (NBCMSO) and assisted by Building Control staff in the relevant Local Authority areas, included routine announced and unannounced inspections and surveys of quarries, pits, places of manufacture and storage locations, the taking samples of aggregates and blocks and other products for testing and requests for relevant documentation. Site visits commenced in June of 2021 in a number of quarries, including a number here in Donegal, and samples of aggregates and concrete products were taken by the NBCMSO staff for testing as well as seeking relevant documentation to demonstrate compliance with the Construction Product Regulations.

Further to notification received by the Council in late 2021 from NSAI, site visits to a number of block manufacturers have taken place involving the Geological Survey Ireland (GSI), NBCMSO and ourselves. The GSI have taken samples of the aggregates and materials stored on site and being used in the manufacture of concrete blocks and are testing these for compliance with relevant standards and samples of concrete blocks have also been sent for testing for compliance with IS EN 771-3.

Following this, the Minister has requested that an audit of all block manufacturers in the County be carried out and this is currently being worked on by the NBCMSO, assisted by Donegal County Council, within available resources, and the GSI.

The EU Construction Products Regulations 2013 set out harmonized conditions for the marketing of construction products in order to ensure the free movement of such products across member states of the EU. Where a construction product covered by a harmonised

standard is being placed on the EU market, the CPR requires the manufacturer to draw up a 'declaration of performance' and affix a 'CE' marking to the product. In order to do so, manufacturers must test and declare the performance of their construction products using a common technical language prescribed in the harmonised standard.

In terms of the manufacture of concrete blocks, the responsibility for the quality and conformance with the standards rests with the manufacturer. This extends to the geological analysis of the quarry materials, the concrete design and composition, materials technology specialists and the production process. In order to be in a position to apply the "CE" marking to their product as required by the regulations, manufacturers must have a factory production system which is independently certified by NSAI as the official certifying body (Notified Body) and a declaration of performance which is produced by the manufacturer after they have the relevant technical documentation and test reports in place.

Whilst the standards above are relevant to concrete blocks, we are not aware of any Harmonised European Standard that definitively states the acceptable levels of Mica in a concrete block. There are factors other than mica content, such as cement content, render used or exposure levels, that can greatly impact the effects of the minerals.

In terms of ensuring quality products, the primary obligation remains with the manufacturers and the legislation and penalties are written accordingly.

Market Surveillance Authorities such as Donegal County Council do not have obligations for the quality and compliance with standards

and specifications for products but are part of a chain of enforcement for investigating and prosecuting incidences of non-compliance.

The Building Control (Amendment) Regulations 2014 introduced the requirement for construction works to be signed off by an Assigned Certifier as an additional safeguard against sub-standard building practices and materials. It should be noted however that where the owner of a one-off dwelling chooses to “Opt-out” of the certification process, then they are declaring themselves as being competent to certify compliance with the Building Regulations and all that entails.

In carrying out their assessment and inspection of works, Assigned Certifiers are expected to collate all of the information necessary to confirm that the products used in a construction product meet the requirements of Part D of the second schedule of the Building Regulations which states that works must be carried out with proper materials. Proper materials are defined in the regulations as being materials which are fit for the use for which they are intended and for the conditions in which they are to be used, and includes materials which:

- (a) bear a CE Marking in accordance with the provisions of the Construction Products Regulation;
- (b) comply with an appropriate harmonised standard or European Technical Assessment in accordance with the provisions of the Construction Products Regulation; or
comply with an appropriate Irish Standard or Irish Agrément Certificate or with an alternative national technical specification of any State which is a contracting party to the Agreement on the European Economic Area, which provides in use an equivalent level of safety and suitability.

18. Is there any update on the regulation of quarries?

An audit of quarries in Donegal is currently being carried out by the National Building Control and Market Surveillance office, in partnership with the Council as the local Market Surveillance Authority, for compliance with the requirements of the Construction Product Regulations.

With regard to the planning review and regulation of all quarries in the county the below is the position as of the 11th March 2022:

- There were 187 individual quarries on the initial register from 2012, with 162 quarries / associated cases inspected,
- 96 quarry cases were closed out following inspection / negotiation (no further action necessary at this time),
- 31 additional quarry cases opened (in addition to original 187) with an extra 5 new associated cases i.e. infilling and block yards / concrete yards investigated,
- 56 quarries remain on the original register not inspected to date,
- 36 Enforcement Notices served, 8 Warning Letters issued and 10 cases of general correspondence only,
- 23 quarry cases are currently at prosecution stage and / or in Court,
- 25 quarry operators actively working with the Council at various phases regarding regulation,
- 2 Leave to apply for Substitute Consent applications to an Bord Pleanala granted and in process,
- 3 Section 5 Referrals taken by DCC to an Bord Pleanala,
- 2 cases under 3 – 6 month review awaiting information from the operator.

19. Clarification if houses being rebuilt have to be built in accordance with the 2007 building standards or the current standards?

The Building Regulations are frequently being reviewed and updated. In general, any new buildings are required to be constructed in compliance with the regulations in place at the time. To date, the Government have not published details of the new Enhanced Defective Concrete Block Grant Scheme and it is therefore not clear if there will be any provision in that scheme dealing with building regulations. This will be known after details of the Enhanced Scheme is published.

20. How can we make sure that the issue of defective blocks does not happen again?

Responsibility for the quality of any construction product rests with the manufacturer. The Council is not in a position, nor does it have a responsibility to provide assurance about the quality of construction products, including concrete blocks. There are a number of new measures in place now that were not in place when the defective blocks issue was developing.

Concrete blocks are covered by the Construction Products Regulations (2013) which require the manufacturer to have an independently certified manufacturing process to meet the requirements of AVCP (assessment and verification of constancy of performance) System 2+.

System 2+ requires the manufacturer to have in place a Factory Production Control (FPC) system and allows them to affix a CE mark and issue a Declaration of Performance (DoP) for their products. The FPC is required to be independently certified by the Notified Body for the

country. In Ireland the National Standards Authority of Ireland (NSAI) is the Notified Body.

In summary, the manufacturer of aggregate concrete blocks is responsible for compliance with the CPR and in particular for the Declaration of Performance/CE marking of the construction product he or she is placing on the market, having full knowledge of the raw material, and having regard to the end product's suitability for use in construction works in accordance with the relevant Standard Recommendations published by the NSAI.

In addition to the above, the Building Control (Amendment) Regulations 2014 introduced the requirement for construction works to be signed off by an Assigned Certifier as an additional safeguard against sub-standard building practices. It should be noted however that where the owner of a one-off dwelling chooses to "Opt-out" of the certification process, then they are declaring themselves as being competent to certify compliance with the Building Regulations and all that entails.

Notwithstanding the above, in the case of an issue similar to the defective blocks issue arising now, where the defect emerges over time with the product apparently showing no signs of defect at the point of manufacture, it is not known if this would get picked up in advance.

It is important that the required standards, quality controls, and management audits and testing, including verified independent checking, are in place at the point of manufacture. That will give better assurance than a reliance on state bodies to later detect defects which quite often get picked up after failures are realised.

21. What are the alternative materials that can be used in housing construction other than blocks, e.g. bricks, timber frame houses, etc.

Building Regulations are made for specific purposes, e.g. to provide, in relation to buildings, for the health, safety and welfare of persons, the conservation of energy and access for people with disabilities. Technical specifications (including harmonised European product standards, European Technical Assessments, National Standards and Agrément Certificates) are relevant to the extent that they relate to these considerations.

In general, Building Regulations apply to the construction of new buildings and to extensions and material alterations to buildings. In addition, certain parts of the Regulations apply to existing buildings where a material change of use takes place.

Technical Guidance Documents have been published which set out guidance on how the requirements of the Building Regulations may be complied with. The materials, methods of construction, standards and other specifications (including technical specifications) which are referred to in the Technical Guidance documents are those which are likely to be suitable for the purposes of the Regulations. Where works are carried out in accordance with the guidance in these documents, this will, prima facie, indicate compliance with the Second Schedule to the Building Regulations. However, the adoption of an approach other than that outlined in the guidance is not precluded provided that the relevant requirements of the Regulations are complied with. Those involved in the design and construction of a building may be required by the relevant building control authority to provide such evidence as is

necessary to establish that the requirements of the Building Regulations are being complied with.

There are a number of alternative and new modern methods of construction being employed in various areas of the Country and provided that it can be demonstrated that these construction methods meet the requirements of the regulations including confirmation that the materials used are fit for the use for which they are intended and in the conditions in which they are to be used, they can meet the requirements of the Building Regulations.

Similarly, construction methods such as concrete brick, hollow core blocks, clay bricks etc. which are less frequently used in Donegal can be used to construct dwellings provided it can be demonstrated that they meet the requirements of the regulations, are fit for the use for which they are intended and in the conditions in which they are to be used.

Some of the alternative construction methods currently being employed include Insulated Concrete Formwork, Timber-frame, Steel frame, Structural Insulated panels and other "off-site" manufacturing and onsite techniques that provide alternatives to traditional building.

Typically, modern methods of construction (MMC) can be broken into several general categories such as i) volumetric construction, ii) pods, iii) panelised systems (flat panels manufactured in a factory and transported and assembled on site), iv) sub-assemblies and components and v) site based MMC.

The National Standards Authority of Ireland is now offering Certifications on the construction stage and sign-off on Modern Methods of Construction products and building system installation compliance under Building Regulations.

NSAI Certification ensures certified products are 'proper materials' suitable for their intended use under Irish site conditions, and per the Building Regulations 1997 to 2019.

Agrément Certification is designed specifically for new innovative building materials, products and systems that do not yet have a long history of use and for which there may be no national standard, harmonised European product standard (hEN) or European Technical Assessment (ETA). Agrément Certification confirms products/systems are fit for purpose and when installed with due regard to the limitations contained within their Agrément certificate, the MMC will satisfy all relevant Parts of the Irish Building Regulations 1997 - 2021.

Part D of the second schedule of the Building Regulations states that all works shall be carried out using "Proper materials" and goes on to define "Proper Materials" as materials which are fit for the use for which they are intended and for the conditions in which they are to be used, and includes materials which:

- a) bear a CE Marking in accordance with the provisions of the Construction Products Regulation;
- b) comply with an appropriate harmonised standard or European Technical Assessment in accordance with the provisions of the Construction Products Regulation; or
- c) comply with an appropriate Irish Standard or Irish Agrément Certificate or with an alternative national technical specification of any State which is a contracting party to the Agreement on the European Economic Area, which provides in use an equivalent level of safety and suitability.

22. Can we have clarity that defective blocks came from more than one quarry in the County?

The Council does not have access to a system of traceability for concrete blocks used in the county and has not compiled data on the sources of defective concrete blocks. As such the Council is not in a position to say if the source of defective blocks is limited to a single supplier or if there are potentially multiple suppliers involved.

23. Have we enough skilled workers to carry out the works?

There are acknowledged shortages of skilled workers in some areas of the construction sector and it is expected that this will have an impact of the capacity of the sector to respond to the reconstruction demands for the remediation of properties under the Enhanced Scheme.

24. The issuing of Enforcement Notices to affected homeowners who are providing temporary accommodation beside their homes needs to be addressed.

To date only one case has been investigated on foot of a complaint made to the Council which involved temporary accommodation related to a MICA home. The Council are obliged to follow up on complaints it receives.

This case involved the siting of a mobile home to the front of a detached property. Following contact from the enforcement unit the owners of the property clarified that their home has MICA and that the mobile home would be for temporary accommodation purposes.

As the Enforcement Unit is acutely aware of the MICA issue it was decided to place the case on review for 6 months to await further clarification on the scheme and possible exemptions which may be forthcoming.

Waste Disposal

25. Do we have enough landfill areas to safely dispose of waste materials?

There are no sites currently in Donegal where un-segregated demolition material can be disposed of, however, there are waste collectors and waste facilities in the county who are authorised to collect or accept the material, segregate it and transport it to authorised sites elsewhere.

It is recommended however, that a segregated approach is taken to demolition materials in order to achieve greater value for money and optimise the possibility of reuse of materials. This is achieved by deconstructing the building (removing windows, timber, wiring, plumbing, saving some material for reuse and placing singular waste streams into skips). Some buildings have been deconstructed in this manner and cost savings were achieved in comparison to just putting all mixed waste into a skip.

Donegal County Council grants Waste Facility Permits to sites where segregated materials such as concrete may be disposed of. There is very limited capacity in Donegal currently within sites that are authorised to accept this material. The Council is taking proactive steps to address this including;

- liaising with the Regional Waste Management Planning Office, the EPA, the Department for Environment, Climate and Communications on identifying options for re-use;
- engaging with the sector to examine opportunities to maximise the capacity of disposal sites;
- exploring an incentivised approach for applications for new or increased facilities.

Other Issues

26. How can funding be accessed for the “Community Based Hub” that has been proposed by the homeowners?

The Council will explore any potential funding opportunities with the Department of Housing, Local Government and Heritage and the Housing Agency.

27. Purchase of 5 houses at An Crannla, Buncrana.

While the Council has already dealt with this matter publicly on a number of occasions, we have also indicated that we will have the file reviewed by an external audit firm and this is being arranged.

In addition, it was noted at the Special Council Meeting on the 24th February 2022, that the matter had been addressed again at the Housing & Corporate Strategic Policy Committee Meeting held on the 10th February 2022 and it was agreed that the minutes from same for this item would be attached. Draft minutes from the SPC meeting are attached herein **(Appendix 2)**.

28. Have Modular homes and sites been identified for social housing tenants and private home owners.

Some work commenced in identifying sites and suppliers of modular homes and this work will be continued by the Special Project Delivery Team for the remediation of social housing.

End.

APPENDIX 1

Guidance on Implementation of Changes to the Defective Concrete Blocks Grant Scheme under S.I. 85 of 2022

1. Essential Immediate Repair Works

The responsibility for health and safety issues in and around the home rests with the homeowner. Any concerns which a homeowner has regarding health and safety or structural stability of a home impacted by defective concrete blocks should be investigated by the homeowners competent engineer who will be able to advise on the severity of the issue and the appropriate action that should be taken to mitigate any health and safety risk.

The IS:465 standard flags this issue and under para 5.2 (Dwelling Inspection), it states that, as part of the building condition assessment process, where the Chartered Engineer has concerns regarding lack of structural stability (local or otherwise) in the dwelling he/she should advise the owner of any necessary immediate actions. Any such works called out by the competent engineer in the building condition assessment report or any supplementary building condition assessment report submitted by a homeowner under the scheme will now be eligible for recoupment under the scheme at a rate of 90% up to a maximum allowable cost of €5,555, once a Stage 1 approval has issued on the home and such costs can be vouched.

Type of Works to be Covered

Examples of the type of works which will be covered are listed hereunder but this should not be treated as an exhaustive or prescriptive list;

1. Immediate works identified by the homeowner's competent engineer as being necessary to deal with any threat to the structural stability of the home as part of the building condition assessment process outlined in clause 5.2 of I.S. 465.

2. Such works include but are not strictly limited to bracing, netting, protection over entry points to the home, chimney repairs/removal, fencing etc.
3. Local authorities should take a flexible and practical approach to this issue as it is likely that the type of works required to deal with structural stability issues will vary from home to home and require bespoke responses by the competent engineer.

Recoupment of Costs Incurred on Essential Immediate Repair Works

Heretofore under the defective concrete blocks grant scheme, work carried out or expenditure incurred by a homeowner prior to receipt of a Stage 1 – Confirmation of Grant Eligibility, were ineligible for recoupment. The only exception provided was in respect of the costs incurred in engaging an engineer from the Engineers Ireland Register of IS:465 engineers for the purposes of the assessment, testing and categorisation of homes.

In the Government decision of the 30 November 2021, a further exception to this general rule was approved in respect of costs associated with essential and immediate repair works related to the structural stability of any part of an affected home, which are recommended and carried out by a homeowner on foot of an engineer's recommendation as part of the 'Building Condition Assessment' process under Clause 5.2 of I.S. 465. Such works have now been provided for under the amending regulations.

Homeowners who receive a stage 1 approval under the scheme are now allowed to recoup 90% of the maximum allowable cost of €5,555 under the scheme where such works have been specified by the homeowner's engineer as part of the building condition assessment process or any supplementary building condition assessment report submitted to the local authority.

The cost can be recovered for works completed prior to or during the application process but are only recoupable by homeowners once they have received a Stage 1 - Confirmation of Eligibility.

Notification to Impacted Homeowners

Local Authorities should take immediate steps to bring this enhancement to the scheme to the attention of all homeowners either through direct communication with applicants or local action groups, publicity material, website, social media etc. Any such notification should make clear that the responsibility for Health and Safety issues in and around the home are the responsibility of the homeowner and the conditions under which essential immediate repair works costs can be recouped.

2. *Recoupment of Engineers Fees*

Regulation 8 (11) of S.I. 25 of 2020 requires that a homeowner must have received a Stage 1 confirmation of eligibility before the cost of the engineers fees for their I.S. 465 report can be recouped.

Regulation 5 of the 2022 Regulations waives the requirement for a Stage 1 confirmation of eligibility to be in place prior to recoupment of the cost of the engineer's fees for homeowners whose applications were received by the local authority before the 24 February, 2022.

Please note that regulation 8 (11) of S.I. 25 of 2020 continues to have effect in respect of applications received by the local authority on or after the 24 February, 2022.

Local authorities are requested to make immediate arrangements for the recoupment of engineers fees to homeowners whose applications were received before the 24 February, 2022 and homeowners have sought payment under regulation 8 (3) of S.I.25 of 2020 and such fees have not yet been recouped.

3. *Stage Payments*

Regulation 10 (6) of S.I. 25 of 2020 limited the value of stage payments which can be released to homeowners prior to the final stage payment to 75% of the approved cost.

The effect of this was that it was likely that many homeowners could have significant grant monies withheld pending receipt by the local authority of the final stage payment which is required to be accompanied by the certificate of remediation in accordance with regulation 10 (2) (f). The 75% limit was considered to be too low and this has therefore been raised to 85% under regulation 8 (b) of the 2022 Regulations.

Local authorities should review their records and ensure that any homeowner who has had their stage payments capped at the 75% is given the benefit of the increase in this cap to 85% of the allowable cost and that the 85% cap is applied from now on. It is important to bear in mind in communications on this matter that the 85% is in respect of the allowable costs but is actually closer to 95% of the grant amount approved and this is more in line with normal retention standards on construction projects.

<p style="text-align: center;">Housing & Corporate Strategic Policy Committee DRAFT Minutes of Meeting held online on 10 February 2022</p>
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SPC Members in attendance:

Cllr Donal Coyle
Cllr Jimmy Kavanagh
Cllr Michael Cholm Mac Giolla Easbuig
Cllr John S. Ó Fearraigh

Cllr Terry Crossan
Cllr Martin McDermott
Cllr Gerry McMonagle
Ann Wilkinson

Officials in attendance:

Patsy Lafferty, A/Director of Service
John Gallagher, A/Senior Engineer
Siobhan Foy, Administrative Officer
Seán Ó Daimhín, Oifigeach Gaeilge
Róise Ní Laifeartaigh, Oifigeach Gaeilge
Liam McCarron, Senior Staff Officer

Apologies from Patricia McIntyre, A/Senior Executive Officer.

On the proposal of Cllr McMonagle, seconded by Cllr Coyle, it was agreed that Cllr Kavanagh would chair the meeting, pending formal appointment of a new Chairperson.

1. Minutes of SPC Meeting held on 20 October 2021

(a) Adoption of Minutes

On the proposal of Cllr McMonagle, seconded by Cllr Crossan, the minutes of the meeting held on 20 October 2021 were adopted.

(b) Matters Arising

Housing Grants – following a question from Cllr. McMonagle, it was agreed that the Council write to the Minister again seeking an update on the position with regard to the review of maximum limits on Housing Grants.

2. Local Authority Home Loans (LAHL) Scheme

Liam McCarron gave a summary of the new Local Authority Home Loan scheme, which came into effect in January, and noted the main changes from the previous scheme (Rebuilding Ireland Home Loan).

It was noted that the interest rate available under the scheme is very favourable in comparison to what is available from many private lenders.

There was discussion on the maximum value of loans available and the maximum income eligibility thresholds.

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3. Housing First National Implementation Programme

Patsy Lafferty gave a briefing of the programme. There followed a lengthy discussion on the programme and the wider issue of homelessness in the county, summarised below.

- There is a focus on one-bedroom properties under Housing First. While this is proving successful in some cases, a balanced approach is needed.
- Homelessness is a complex problem that requires a multi-agency response, of which the Council is a key part.
- The Homeless Action Team meets every month to discuss individual cases. The team comprises representatives from the Council, HSE (addiction and mental health services), Probation Service, NW Simon, St. Vincent de Paul, and Donegal Women's Domestic Violence Service.
- Among other things, the team decides the priorities for Housing First, based on the most challenging cases.
- Generally, the Council does not designate specific properties for housing homeless persons, but uses new and existing housing stock, including AHB housing.
- The Council works closely with the Donegal Women's Domestic Violence Service who have acquired some properties for transitional accommodation, with the assistance of the Council and the Capital Assistance Scheme, which are being refurbished at present.
- The Council works closely with the White Oaks Centre in Muff, who have also acquired a property with the assistance of the Council and the Capital Assistance Scheme to provide transitional accommodation for persons availing of their addiction services.
- The Council also funds outreach services provided through NW Simon and the homeless hostel in Letterkenny.

4. Amendments to Tenant (Incremental) Purchase Scheme 2016

Liam McCarron gave a summary of the recent changes to the scheme, namely:

- The minimum income required for an applicant to be eligible under the scheme has been revised downward from €15,000 to €12,500 per annum.
- The minimum length of time an applicant must be in receipt of social housing support in order to be eligible has been increased from one to ten years. In the case of joint applications, this requirement will apply to both applicants.

It was noted that, although the new income limits allow persons whose primary income is a pension to apply, it is Council policy not to make properties that are specifically designed and provided for older persons (OPDs) available for purchase under the scheme.

It was noted that the requirement in respect of joint applicants that they both meet the 10-year requirement regarding social housing support was very restrictive. It was agreed that the Council would raise this with the Department.

5. Update on arrangements for Social Housing Acquisitions

Patsy Lafferty gave a summary of the arrangements for acquiring new social housing in 2022 under *Housing For All*. The following points were discussed:

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- New focus on providing houses through the construction programme.
- While the scope for purchasing properties is limited, the Council can make requests to the Department to acquire properties in specific cases (e.g. Housing First; homelessness; disability needs). In period 2022-2026, the Council proposes to acquire 35 properties to meet such needs. Where a specific need exists, the Council will continue to seek approval to acquire suitable properties.
- Where specific needs are identified, these can be incorporated into the design of new housing projects. Discussion will take place with the MDs to ensure these specific needs are considered early in the process.
- The Council can continue to acquire houses under the *Buy & Renew Scheme*, as these play a key role in tackling vacancy and dereliction.
- The Council can also continue acquisitions through the Turnkey process.

6. Defective Concrete Blocks

(i) Defective Concrete Block Grant Scheme

Siobhan Foy and John Gallagher gave a summary of applications received to date, including numbers, status and issues arising. Several points were noted:

- A majority of applicants are now seeking full demolition and rebuild.
- The Council is still receiving applications under the current scheme and these are being processed.
- The enhanced scheme is expected later in the year, once the enabling legislation has been enacted.
- It is expected that the new scheme will provide clarity on a range of issues that have come to light on foot of applications received to date.
- The new scheme will take account of the up to date research regarding muscovite mica, pyrite, pyrrhotite, and the interactions of these minerals.
- Some members raised that IS:465 is no longer fit for purpose.

(ii) Purchase of Council Houses

Cllr. McMonagle, Cllr. Coyle and Cllr. McDermott asked for clarity on the acquisition of the 5 houses in Buncrana at An Crannla. Cllr. Coyle stated that the key question was whether there was collusion between the owner and the Council. He said that the power of social media had raised the suspicion of wrongdoing, and that he would like to know what happened.

John Gallagher responded and outlined as follows.

- That the houses had been leased under the Social Housing Leasing Scheme for 10 years, and that the leases had been coming to an end.
- The Council had to find alternative accommodation for the five families who had been living in the houses.
- The Council explored alternative options, which were limited.
- The Council was aware of the presence of mica, but the judgement at the time, after obtaining independent geologist advice was that it was deemed to have been at acceptable levels.
- He advised that mica is a naturally occurring mineral and added that not every house that is affected by mica needs to be demolished.
- He added that the Council was presented with a scenario where the levels of mica had to be considered, and that geologist advice was obtained in this

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regard. He added that the Council also had to consider the fact that the houses had been tenanted for 10 years, and the tenants were anxious to remain, and the technical judgment at the time was such that there was no requirement to relocate the tenants.

Mr. Gallagher added that he was happy with the condition of the houses at the time the decision was made, and the position still remains today. He confirmed that the houses will in his view remain structurally stable for many years. He wanted to reassure members that there was absolutely no collusion involved and would rebuke any such contention. He advised that it was a genuine case of endeavouring to provide tenancies for the five families that could be sustained.

Cllr. McMonagle thanked Mr. Gallagher for his upfront and straight answer. He stated that the rumours on social media were nonsense in his view. He added that he had read the documents circulating and would concur with what Mr. Gallagher had said, and that there was never any wrongdoing or collusion. He said that the decision needed to be taken in the context as outlined, and that it was an educated assessment at the time. He added that it was important that same be put out into the public domain, and that people would understand it.

Cllr. Kavanagh advised that he agreed with Cllr. McMonagle and that this needed to be given front page treatment in the media, with photographs of the houses.

Cllr. Coyle thanked Mr. Gallagher for his response, and stated that he was a man of integrity, and that he appreciated his straight and honest reply, and that he told it as it was.

Cllr. Crossan thanked Mr. Gallagher for his comprehensive answer and said that this needed to be put into the public domain so that everyone is clear on what happened. He said that it was important to note the actual condition of the houses and the fact that there were long term tenants in them who wanted to remain there. He said that the vilification and abuse was unacceptable.

7. AOB

Cllr Mac Giolla Easbuig proposed that meetings of the SPC be streamed live online.

It was agreed that arrangements would be made to have Housing Construction staff attend MD meetings, where possible.

It was agreed that information would be provided on process to be followed to rename housing estates.

8. To confirm date of next meeting.

The next meeting of the SPC will take place at 11am on Thursday 21st April 2022.