

**Review of purchase of Nos 1-5
An Crannla by Donegal County
Council**

BDO Report

24 June 2022

Strictly Private & Confidential

Strictly Private and Confidential
To Be Opened by Addressee Only

Date: 24 June 2022

Mr. Richard Gibson
Head of Finance
Donegal County Council
County House
Lifford
County Donegal
F93 Y622

Dear Mr. Gibson,

Review of the purchase of Nos. 1-5 Ann Crannla, Buncrana, Co. Donegal (“the five houses”).

Please find enclosed our Report in relation to the above matter.

This Report has been prepared by BDO for Donegal County Council (“The Council”) in accordance with our engagement terms on the basis of the scope and limitations set out therein. It has been prepared for the purposes of assisting the Council in its own internal review.

Our Report should not be used for any other purpose or in any other context without the written consent of BDO, and BDO accepts no responsibility for its use in either regard.

The Council confirms that the facts, as stated, are accurate in all material respects, that any opinions attributable to employees are fair and reasonable, that it has made available all significant information relevant to the Report of which they have knowledge and that it is not aware of any material matters relevant to our terms of reference which have been excluded.

We note public comments in an open letter dated 4 February 2022 to the Minister for Justice and the Minister for Housing by an elected member of the Council who alleges “corruption” and “systemic corruption” in Donegal County Council in this case. It is also alleged in a published recording from October 2021 that elected officials abused their positions to pressure Council staff, and that either the Council staff did not know the rules of the long-term lease scheme, or that they were intent on helping the vendor by purchasing the houses. These allegations are denied by all Council staff with whom we met in conducting our independent review.

We note in an update to the Council on 30 May 2022, the Council states it has received no evidence to support the allegations of corruption that were first made at a Council meeting on 25 November 2021.

We acknowledge that allegations of corruption must be taken seriously. We also acknowledge that the Council, as a public body, must be held to the highest standard of accountability. We recommend that if anyone has any concerns about corruption in respect of the subject matter of this review, or any other matter within the Council, that those concerns be reported to An Garda Síochána.

In accordance with fair procedures, we have met individually with the relevant Council staff involved in the leasing, inspection and purchase of the properties. We acknowledge the full cooperation of the Council staff who assisted us in our review. They have provided us with detailed information on the decisions that were taken in the purchase of the five houses, which we set out in this Report.

This Report is provided exclusively for use by the Council. No other party other than the Council is entitled to rely on this Report for any purpose whatsoever and BDO accepts no responsibility or liability to any party other than the Council in respect of this Report or its contents.

Yours sincerely

BDO

IMPORTANT NOTICE

In the event that Donegal County Council must disclose this Report pursuant to any obligations that may arise under the Freedom of Information (FOI) Acts, we draw to the attention of **any subsequent reader** that:

- (a) The Report and its contents do not constitute financial or other professional advice to you. You should seek specific advice about your specific circumstances.
- (b) To the fullest extent possible by law, both BDO and Donegal County Council disclaim any liability arising out of your own use (or non-use) of this Report and its contents, including any action or decision taken as a result of such use (or non-use).
- (c) You should keep this Report confidential and not copy or circulate this Report, or any extracts therefrom.

All copyright and other proprietary rights in this Report remain the property of BDO, with BDO reserving its right to the fullest extent possible by law.

TABLE OF CONTENTS

Section	Page
IMPORTANT NOTICE	4
1 EXECUTIVE SUMMARY	6
2 THE DECISION BY THE OWNER TO SELL THE FIVE HOUSES	16
3 THE INSPECTION OF THE PROPERTIES BY THE ENGINEERS AND THE COUNCIL'S APPROVAL PROCESS TO PROCEED WITH THE PURCHASE	20
4 THE NEGOTIATION OF THE PURCHASE PRICE AND THE INDEPENDENT VALUATION REPORTS	23
5 THE CONVEYANCE PROCESS AND THE APPLICATION TO THE DEPARTMENT OF HOUSING FOR THE FUNDS	24

1 EXECUTIVE SUMMARY

Introduction and terms of reference

1. BDO was appointed by Donegal County Council (“the Council”) on 16 May 2022 following a public tender process. We were appointed to:
 - (a) review the process followed by Donegal County Council in connection with the purchase of five houses at the An Crannla estate in Bunrana (namely houses no.1 to 5); and
 - (b) prepare a report detailing our findings relating as to how the Council managed the process of purchasing the five houses in the context of statutory requirements, department guidelines, and appropriate due-diligence considerations.
2. BDO has been assisted by John T Garrett & Associates, Consulting Engineers to review the processes carried out by the Council. Any commentary attributable to John T Garrett & Associates, Consulting Engineers is stated in this Report, where applicable. John Garret is a Chartered Engineer and Fellow of Engineers Ireland. He is an IS 465 registered Engineer.

Background

3. There has been wide public commentary on this issue. We note public comments in an open letter dated 4 February 2022 to the Minister for Justice and the Minister for Housing by an elected member of the Council who alleges “corruption” and “systemic corruption” within Donegal County Council in this case. It is also alleged in a published recording from October 2021 that elected officials abused their positions to pressure Council staff, and that either the Council staff did not know the rules of the long-term lease scheme, or that they were intent on helping the vendor by purchasing the houses. These allegations are denied by all Council staff with whom we met in conducting our independent review.
4. We note in an update to the Council on 30 May 2022, the Council stated it has received no evidence to support the allegations of corruption that were first made at a Council meeting on 25 November 2021.
5. In accordance with fair procedures, we have met individually with the relevant Council staff involved in the leasing, inspection and purchase of the properties, and reviewed the Council’s files. We acknowledge the full cooperation of the Council staff who assisted us in our review, who have provided us with detailed information on the decisions that were taken in the purchase of the five houses, which we have set out in this Report. During the course of our work the relevant Council staff involved in the leasing, inspection and purchase of the properties stated to us individually that:

- (a) They refute all allegations of corruption that have been put into the public domain about the purchase of the five houses.
- (b) They did not act corruptly in conducting their duties as employees of the Council.
- (c) No one benefitted personally, financially or otherwise, from the decisions they took in their capacity as employees of the Council in the purchase of the five houses.
- (d) They did not have any conflicts of interest regarding the tenants or the vendor of the five houses.
- (e) They did not experience any pressure from any person or third party to take decisions regarding the purchase of the five houses.
- (f) They did not cover up, or attempt to cover up, any issue regarding the five houses, including the condition of the houses or anything regarding the maintenance or repairs that have been carried out since the houses were purchased by the Council.

Summary of key issues

- 6. The Council completed the purchase of five houses at the An Crannla estate in Buncrana (Houses 1 to 5) (“the five houses”) on 2 March 2021.
- 7. The five houses had been leased by the Council since 2010 under a long-term lease scheme approved by the Department of Housing, Local Government and Heritage (“the Department of Housing”). The owner notified the Council of his intention to sell the five houses on 8 May 2019. The lease was due to expire in January 2020, and from May 2019 onwards, the Council entered into discussions with the owner about the possibility of purchasing the properties, after the owner had notified the Council of his intention to sell.
- 8. The Council’s inspection of the properties in May 2019 identified visible cracks on the outside of some of the units. These are visible from Google Maps Street view from July 2021, accessible by clicking the following URL (link to google maps): <https://tinyurl.com/yr3s2x5w>
- 9. It is the Council’s standard process for non-leased properties, i.e., second hand properties of which it has no prior knowledge or history which it might consider for acquisition, to not proceed any further with the acquisition process if there are visible signs of cracking. This situation was unique however for a number of reasons including that the Council had repaired and maintained these houses for the previous 10 years, the status of them was known to the Council, and there was a general shortage of housing in the County Donegal area, which would be relevant in the event the Council had to re-house five families. This

housing situation was acknowledged and debated at a meeting of Donegal Council on 20 March 2019.¹

Figure 1 - Image of one of the five houses in July 2021 (prior to repair work undertaken by the Council) (Source: Google Street View online)



¹<https://www.donegalcoco.ie/media/donegalcountyc/yourcouncil/pdfs/minutesofcouncilmeetings/2014minutes/Minutes%20of%20March%20Council%20Meeting%20-%2025th%20March,%202019.pdf>

Figure 2 - Images of the five houses taken by the Council after it had carried out repairs/maintenance including painting and crack repairs



10. In November 2018, prior to the five houses being inspected by the Council, the National Standards Authority of Ireland had published I.S. 465:2018 'Assessment, testing and categorisation of damaged buildings incorporating concrete blocks containing certain deleterious materials' ("IS 465"), which included a protocol to assess, test and categorise the damage in properties negatively affected by defective concrete blocks, due to excessive free muscovite mica and pyrite. It also gave guidance on remedial works, on what, if any, remedial works might be carried out. This standard IS 465:
- (a) established a protocol for assessing and determining whether a building has been damaged by concrete blocks containing certain excessive amounts of deleterious materials (free or unbound muscovite mica, or aggregate with potentially deleterious quantities of pyrite).
 - (b) describes methods for establishing the extent of the problem.
 - (c) describes the scope of any testing required.
 - (d) categorises buildings, in accordance with this Standard, providing competent persons with guidance on the appropriate measures to be taken.
11. An independent report² dated 10 May 2019 by an IS 465 registered Chartered Engineer commissioned by the vendor considered that there was insufficient evidence of symptomatic cracking damage associated with defective concrete blocks on houses No. 1 and 2 to categorise these houses. Houses 3, 4 and 5 were categorised under Group 3 of Table 1 below of IS465³. The Report dated 10 May 2019 recommended Scientific Analysis of extracted samples for these three houses, along with crack repairs and a review of the dwellings after 24 months to establish whether cracks have reopened and if deterioration exists or not.

² Building Condition Assessment report- Suspected Defective Block case 10th May 2019

³ I.S. 465:2018 The Assessment Testing and Categorisation of Damaged Buildings Incorporating Containing Concrete Blocks Containing Certain Deleterious Materials.

12. We were advised by the Council that reference by the vendor’s engineer to **Group 3** in the IS 465 standard was consistent with the Council’s appraisal of the dwellings at the time of their inspection in May 2019.

Table 1 — Building Grouping

Group	Damage	Building Condition Assessment
Group 1	Undamaged	Pattern cracking is not present, however some or all the circumstantial evidence ^a is recorded in the Chartered Engineer's Report
Group 2	Damaged	Pattern cracking is present in at least one elevation (but insufficient evidence of other damage to classify the building as Group 4, see Group 4, a) to e)), and no circumstantial evidence ^a is recorded in the Chartered Engineer's Report
Group 3	Damaged	Pattern cracking is present in at least one elevation (but insufficient evidence of other damage to classify the building as Group 4, see Group 4, a) to e)), and some or all the circumstantial evidence ^a is recorded in the Chartered Engineer's Report
Group 4	Significantly damaged	<p>Pattern cracking on at least one elevation, and at least two of the following further items of damage present on same or adjacent elevation:</p> <ul style="list-style-type: none"> a) vertical cracks near corners > 5 mm in width; b) crumbling concrete blocks; c) severe displacement of reveals with cracking; d) wall leaning or bulging noticeably i.e. local deviation of slope in the horizontal or vertical plane of external walls of > 1 in 100 [4], and e) cracking of widths > 1 mm on internal leaf where damage is also present on the corresponding external leaf (Figure 2), or multiple cracks of concrete masonry walls in one room of > 0,5 mm. <p>Where circumstantial evidence is available it shall be recorded in the Chartered Engineer's Report.</p>
<p>^a Circumstantial evidence (risk factors) suggesting the possible presence of deleterious materials in concrete blocks includes:</p> <ul style="list-style-type: none"> – information that blocks came from manufacturer(s) reported to have supplied blocks to other damaged dwellings likely to have arisen from deleterious material in concrete blocks, – construction within the date range of constructions mentioned in the Report of the Expert Panel on Concrete Blocks [1], and in the geographic areas reported to be affected; and – documented information (e.g. Chartered Engineer's Report) that other dwellings in the same estate or locale have exhibited signs of damage likely to have arisen from deleterious material in concrete blocks. 		

13. Between May and November 2019, it was decided by the Council that geological testing would be carried out by a recognised specialist geologist before a decision could be taken on whether the houses could be purchased. The testing carried out in November 2019 identified that the houses had 18.4% muscovite, and the Council’s engineers (which includes a member of the Expert Group on the Enhanced Defective Concrete Blocks Grant Scheme), took the decision in November 2019 that the houses were of sufficient standard, with minimal requirement for maintenance and crack repairs, to keep the families in their existing homes. This was seen as especially important at a time when there was a shortage of housing in Donegal. It was on consideration of all these factors that the Council has informed us that it decided to proceed and recommend their purchase in March 2020.

14. The Council has informed us that it was satisfied, under the options open to it under available guidance applicable at the time, that the deterioration displayed by any one of the five houses was not of a sufficient level of degradation to merit even the least intrusive or least expensive option (Option 5) set out in Table D.1 of IS 465. This formed an integral part of the Council’s rationale and justification process for purchasing the five houses.

Table D.1 — Technical options for remediation of affected dwellings - County Donegal - (Table 5.1 from Report of the Expert Panel on Concrete Blocks)

Option No.	Description	Pros	Cons
1.	Demolish entire dwelling to foundation level and rebuild.	Removal of all concrete blocks susceptible to deterioration. Sign off of works by a competent professional, without reservation is possible.	This is the most expensive remediation option. Longest programme duration and may involve making a planning application. Alternative accommodation will be required for duration of works.
2.	Demolish and rebuild external walls (both outer and inner leafs) down to foundation on a phased basis and re-render.	10 % to 25 % less expensive than Option 1. Sign off of works by a competent professional without reservation is possible.	Elaborate temporary works necessary. Alternative accommodation will be required for duration of works.
3.	Demolish and rebuild external walls (both outer and internal leafs) down to top of rising wall on a phased basis and re-render.	15 % to 30 % less expensive than Option 1. Sign off of works by a competent professional may be possible.	Detailed assessment of the condition of any retained rising wall (above and below the DPC level) required. Elaborate temporary works necessary. Possible reservations to sign-off regarding long term durability of rising walls. Alternative accommodation will be required for duration of works.
4.	Demolish and rebuild external walls (outer leaf only) down to top of rising wall on a phased basis and re-render.	70 % to 75 % less expensive than Option 1. Occupant relocation may not be necessarily essential. Sign off of works by a competent professional may be possible.	Detailed assessment of the condition of any retained rising wall/ inner leaf (above and below the DPC level) required.
5.	Take down and rebuild outer leaf of affected walls only and re-render.	Less expensive than Option 4. Occupant relocation not necessary.	Detailed evaluation of the retained rising wall/inner leaf (above and below the DPC level) required. Reluctance to sign-off by competent professionals. Problems may emerge in other walls.
<p>NOTES:</p> <p>The cost comparison presented in the Table is based on a preliminary costing commissioned by the Panel for:</p> <p>a) Dormer Bungalow, 3 Bedroom, 187,7 m² (2 021 sq.ft), and</p> <p>b) Two Storey, 4 Bedroom, 141 m² (1 520 sq.ft).</p> <p>Other technical solutions may exist.</p>			

15. Our review of the Council’s files shows that prior to 15 November 2019, the Council began negotiating the price with the owner of the five houses on the basis that it suspected the five houses could have had defective blocks. The Council believed a semi-detached house without defective blocks was worth €130,000 in 2019, and a detached house €140,000. The Council offered a reduction of €30,000 per house to the vendor if there were defective blocks, which in their view was based on a worst-case scenario of having to remove and

replace the external leaf of each house (as had been carried out by the Council on another unrelated housing unit). The negotiation was led by the engineers and negotiated with the vendor's estate agent. On 15 November 2019 the vendor (having been aware the properties had 18% muscovite) asked for €630,000 for all five houses. Ultimately, the vendor's estate agent negotiated a price with the Council of €600,000 for all five properties on 22 November 2019.

16. Independent valuations were carried out on 9 December 2019, which also valued the five houses at €600,000. We note the valuations are the same as the values that had been negotiated at the time by the Council. BDO is satisfied that these valuations were carried out by an independent estate agent licensed by the Property Services Regulatory Authority.
17. The purchase process was protracted throughout 2020 because the Department of Housing was more focused on funding new builds, rather than acquiring long-term leaseholds. The Council extended the lease in January 2020 to a month-to-month lease in the expectation that Department of Housing approval would eventually be granted. The Department of Housing finally granted approval for the Council to proceed with the conveyance of the five houses in October 2020. During this time, the owner sought to renegotiate the price, and the Council staff instructed the Council's conveyance solicitors to withdraw the contract. The purchase completed in March 2021, at the previously agreed price of €600,000.
18. During the conveyance process, a Council staff member was requested to conduct an inspection of the property in November 2020 and stated in an email "The properties have MICA and will require significant remedial work. The matter has been addressed prior to my appointment...thus, I will not comment further." BDO understands that this email has been scrutinised in the public arena under the Freedom of Information (FOI) Acts insofar as it refers to the five houses as having Mica. We have discussed the contents of the email with both the writer and the recipients responsible for conveying the condition of the five houses to the conveyance solicitor. We are satisfied that the writer wished their views to be recorded on the Council's file in good faith, so that if subsequent decisions were taken following their inspection, then there would be a record on file of the condition of the five houses that they had considered at that time. Subsequent to the date of the abovementioned email, the Council staff member has informed BDO that they have since become aware of the prior geological tests that had been undertaken in 2019 and have been involved in the remediation and monitoring of the houses post acquisition, which have prolonged the life of the five houses until such times as the defective blocks may cause further deterioration at an unknown date in the future. BDO has reviewed the correspondence between the Council and its conveyance solicitor and is satisfied that the query response was further contextualised and included references to "some level of cracking" and a "potential risk of further degradation with freeze/thaw action". The

Council has informed us that it is was satisfied that between 2019 and the completion date that the position remained constant.

19. Approval by the Department of Housing was granted on 9 October 2020 and was conditional on the Council being satisfied as to the condition of the five houses, which they were, having commissioned the geological tests in 2019 and having been inspected by the Council.
20. On 4 March 2021, the Council sought approval for the drawdown of the funds for the purchase. As part of its submission process, the Council stated on a form provided to the Department that the houses were of “Good condition, improvement works required” which the Council believed was consistent with its assessments carried out in 2019 and 2020. However, BDO believes that this statement could have been qualified by reference to the geological tests that had been conducted in 2019. The Department of Housing approved the purchase of the five houses, conditional upon the Council being satisfied as to their condition.
21. The Council responded to the Department of Housing of its consideration of the condition of the five houses on 18 March 2021. BDO believes that the written notification to the Department on the condition of the five houses provided on 18 March 2021 could have been qualified and/or could have included the details of the geological tests the Council had carried out in 2019. BDO notes that in respect of new build houses which commenced being purchased by the Council in 2021, such information is being provided to the Department.
22. To date, €8,484 of repairs to date has been incurred by the Council to meet the housing needs of the residents of the five houses, which has included painting and crack repairs.

BDO Overall Commentary

23. BDO has not identified any documentary evidence of corruption, systemic corruption or corrupt behaviour from our review of the Council’s files. As set out above, we note that in an update to the Council on 30 May 2022, the Council stated it has received no evidence to support the allegations of corruption that were first made at a Council meeting on 25 November 2021.
24. BDO is satisfied that there is documentary evidence that demonstrates there was appropriate segregation of duties at each stage of the leasing, inspection, approval and conveyance processes. We are satisfied from our review of the Council’s files that there has been no attempt to cover up or conceal evidence of the status of the properties on the Council’s files, as all documentation referred to in this report has been made available to BDO. All documentation provided to us has been previously made available to interested parties under the Freedom of Information (FOI) Acts (subject to the provisions of those Acts) and are available to the Department of Housing or any other third party for inspection, as may be required by law.

John T Garrett & Associates, Consulting Engineers Overall Commentary

25. John T Garrett & Associates, Consulting Engineers is of the view that the Council's rationale at the time for the purchase of the five houses can be mapped to the categorisations (building grouping) and remediation options set out in IS 465. John T Garrett & Associates, Consulting Engineers has been advised by the Council that the deterioration displayed by the five houses was not of a sufficient level of degradation to merit even the least intrusive or least expensive option (Option 5) set out in Table D.1 of IS 465. This formed an integral part of the Council's rationale and justification for purchasing the five houses.

Our Recommendations

26. Considering our review of the process followed by the Council, BDO recommends:
- (a) If any of the five houses show significant deterioration in the future, the Council should undertake further tests in accordance with IS 465 or any amended guidance applicable at the time the deterioration becomes known and should consider all remediation options open to the Council, consistent with other Council housing stock affected in the same manner.
 - (b) The Council should continue to monitor the condition of the five houses to ensure that they meet the needs of the residents and undertake timely repairs and/or maintenance to ensure they can continue to meet the residents' needs.
 - (c) The Council should continue to liaise with the Department of Housing in instances where houses are being acquired, and continue to provide details of all geological tests it conducts on housing stock for which it requests funding, which now primarily relates to new house builds.

2 INTRODUCTION AND TERMS OF REFERENCE

Introduction and terms of reference

- 2.1 BDO was appointed by Donegal County Council (“the Council”) on 16 May 2022 following a public tender process. We were appointed to:
- (a) review the process followed by Donegal County Council in connection with the purchase of five houses at the An Crannla estate in Bunrana (namely houses no.1 to 5); and
 - (b) prepare a report detailing our findings relating to how the Council managed the process of purchasing the five houses in the context of statutory requirements, department guidelines, and appropriate due-diligence considerations.
- 2.2 BDO has been assisted by John T Garrett & Associates, Consulting Engineers to review the processes carried out by the Council. Any commentary attributable to John T Garrett & Associates, Consulting Engineers is stated in this Report, where applicable.

Background

- 2.3 We note public comments in an open letter dated 4 February 2022 to the Minister for Justice and the Minister for Housing by an elected member of the Council who alleges “corruption” and “systemic corruption” in Donegal County Council in this case. It is also alleged in a published recording from October 2021 that elected officials abused their positions to put pressure on Council staff, and that either the Council staff did not know the rules of the long-term lease scheme, or that they were intent on helping the developer by purchasing the houses. These allegations are denied by all Council staff with whom we met in conducting our independent review.
- 2.4 We note in an update to the Council on 30 May 2022, the Council stated it has received no evidence to support the allegations of corruption that were first made at a Council meeting on 25 November 2021.
- 2.5 In accordance with fair procedures, we have met individually with all the relevant Council staff involved in the leasing, inspection and purchase of the properties. We acknowledge the full cooperation of the Council staff who assisted us in our review, who have provided us with detailed explanations and justifications for decisions that were taken in the purchase of the five houses, which we set out in this Report. All the relevant Council staff involved in the leasing, inspection and purchase of the properties have confirmed to us individually that:

- (a) They refute all allegations of systemic corruption and corruption that have been put into the public domain about the purchase of the five houses.
- (b) They did not act corruptly in conducting their duties as employees of the Council.
- (c) No one benefitted personally, financially or otherwise, from the decisions they took in their capacity as employees of the Council in the purchase of the five houses.
- (d) They did not have any conflicts of interest regarding the tenants or the vendor of the five houses.
- (e) They did not experience any pressure from any person or third party to take decisions regarding the purchase of the five houses that they felt uncomfortable with or pressured into taking.
- (f) They did not cover up, or attempt to cover up, any issue regarding the five houses, including the condition of the houses or anything regarding the maintenance or repairs that have been carried out since the houses were purchased by the Council.

Confidentiality

- 2.6 This document has been prepared strictly for use by the Council in accordance with the public tender requirements and terms of reference therein. We are agreeable to the Report being made available to the Council's legal advisers if requested to do so, to enable them to provide legal advice as they deem fit. In all respects, this report is confidential and should not be used, reproduced, relied upon, or circulated for any other purpose, in whole, or in part, without BDO's prior written consent. BDO does not accept liability to any party, other than our client.

Legal and factual issues

- 2.7 This report should not be read as expressing any opinion on factual matters which depend on disputed testimony of any witnesses of fact, or legal issues, although it inevitably reflects our understanding of the position.

Preparation of report

- 2.8 The work we have undertaken has been based primarily on internal management information and has been carried out on the assumption that information provided to us by the senior management of the Council is reliable and, in all material respects, accurate and complete. We have not subjected the information contained in this Report to checking or verification procedures except to the extent expressly stated. This is normal practice when carrying out such limited scope procedures, but contrasts significantly with, for example, an audit.

- 2.9 The procedures performed do not constitute an audit. Had we performed additional procedures other matters might have come to light that would have been reported.
- 2.10 Any opinions or views expressed in this report are subject to any further information which may be made available to us.

Limitations

- 2.11 The scope of our work is limited to the information that has been made available to us by the Company and by individuals as referred to in this report. We reserve the right to reconsider the contents of this report should further information be made available to us.

3 THE DECISION BY THE OWNER TO SELL THE FIVE HOUSES

- 3.1 In this Section, we set out the timeline of the decision by the owner to sell the five houses based on our review of the Council's files.
- 3.2 The five houses had been leased by the Council since 2010 under a long-term lease scheme approved by the Department of Housing. The lease was due to expire on 17 January 2020, and from April 2019 onwards, the Council entered into discussions with the owner about the possibility of purchasing the properties, after the owner had notified the Council of his intention to sell.
- 3.3 BDO has seen documentary evidence on the Council's files that the owner of the five houses indicated to the Council on 8 May 2019 that he intended to put the properties on the market after the leases expired on 17 January 2020. He requested that the Council conduct internal and external maintenance on the properties and requested a timeline of when that would be complete.
- 3.4 The intention to sell was repeated by the owner on 25 June 2019.

BDO Commentary

- 3.5 BDO has seen no evidence that Council staff involved in the day-to-day management of the lease of the properties were directly involved in the negotiation of the purchase price, inspection of the properties or the conveyance process, which was handled by external solicitors.

4 THE INSPECTION OF THE PROPERTIES BY THE ENGINEERS AND THE COUNCIL'S APPROVAL PROCESS TO PROCEED WITH THE PURCHASE

- 4.1 In this Section, we set out the timeline of the inspections by the Council, and their approval process to proceed with the purchase.
- 4.2 We have identified from our review of the Council's files that prior to 8 May 2019 a report was commissioned by the vendor into the five houses in the presence of a Council engineer. We were informed that there was visible cracking on the outside of the properties at that time. The engineer's report⁴, which is dated 10 May 2019, authored by an IS 465 registered Chartered Engineer, considered that there was insufficient evidence of symptomatic cracking damage associated with defective concrete blocks on houses No. 1 and 2 to categorise these houses. Houses 3, 4 and 5 were allocated in Group 3 of Table 1 of IS 465⁵. The Report dated 10 May 2019 recommended Scientific Analysis of extracted samples along with crack repairs and a review of the dwellings after 24 months to establish whether cracks have reopened and if deterioration exists or not.
- 4.3 The Council has advised BDO that its assessment of the condition of the five houses was in line with that of the vendor's engineer's report dated 10 May 2019.
- 4.4 Between May and November 2019, it was decided by the Council that geological testing would be carried out by a recognised specialist geologist before a decision could be taken on whether the houses could be purchased. The testing carried out in November 2019 identified that the houses had 18.4% muscovite, and the Council's engineers (which includes a member of the Expert Group on the Enhanced Defective Concrete Blocks Grant Scheme), took the decision in November 2019 that the houses were of sufficient standard, with minimal requirement for maintenance and crack repairs, to keep the families in their existing homes at a time when there was a shortage of housing in Donegal. It was on consideration of all these factors that the Council has informed us it decided to proceed with the purchase and recommend their purchase in March 2020.
- 4.5 The Council has informed us that it was satisfied, under the options open to it under available guidance applicable at the time, that the deterioration displayed by the five houses was not of a sufficient level of degradation to merit even the least intrusive or least expensive option (Option 5) set out in Table D.1 of IS 465. This formed an integral part of the Council's rationale and justification process for purchasing the five houses.

⁴ Building Condition Assessment report- Suspected Defective Block case 10th May 2019

⁵ I.S. 465:2018 The Assessment Testing and Categorisation of Damaged Buildings Incorporating Containing Concrete Blocks Containing Certain Deleterious Materials.

- 4.6 The Council completed a form entitled the “House Acquisition Form”, which was a form signed by the Inishowen Municipal District Housing Unit dated 4 February 2020, recommending the purchase of the five houses. We have discussed the contents of the form with the key Council staff members who were involved in the inspection of the five houses and who commissioned the geological tests in November 2019. One of the items for consideration by the Council on the form is whether (on a yes or no basis), “on visual inspection, the property appears to be in good condition (both structurally and generally).” The Council responded yes to this item on the form.

BDO Commentary

- 4.7 Having discussed the House Acquisition Form with the Council staff individually, we are satisfied that there was consideration given as to the likely need for repairs following the geological tests undertaken by a recognised specialist geologist before a decision could be taken on whether the houses could be purchased. The testing carried out in November 2019 identified that the houses had 18.4% muscovite, and the Council’s engineers (which includes a member of the Expert Group on the Enhanced Defective Concrete Blocks Grant Scheme), took the decision in November 2019 that the houses were of sufficient standard, with minimal requirement for maintenance and crack repairs, to keep the families in their existing homes at a time when there was a shortage of housing in Donegal. It was on consideration of all these factors that the Council has informed us it decided to proceed with the purchase and recommend their purchase in March 2020.

John T Garrett & Associates, Consulting Engineers Commentary

- 4.8 John T Garrett & Associates, Consulting Engineers is of the view that the Council’s rationale at the time for the purchase of the five houses can be mapped to the categorisations and remediation options set out in IS 465. John T Garrett & Associates, Consulting Engineers has been advised by the Council that the deterioration displayed by the five houses was not of a sufficient level of degradation to merit even the least intrusive or least expensive option (Option 5) set out in Table D.1 of IS 465 (see below). This formed an integral part of the Council’s rationale and justification for purchasing the five houses.
- 4.9 John T Garrett & Associates, Chartered Engineers, notes that Option 5 remediation as set out in the Table above has not been necessary to date, and it is not known at what point any of the above options may become necessary in the next few years.

**Table D.1 — Technical options for remediation of affected dwellings - County Donegal -
(Table 5.1 from Report of the Expert Panel on Concrete Blocks)**

Option No.	Description	Pros	Cons
1.	Demolish entire dwelling to foundation level and rebuild.	Removal of all concrete blocks susceptible to deterioration. Sign off of works by a competent professional, without reservation is possible.	This is the most expensive remediation option. Longest programme duration and may involve making a planning application. Alternative accommodation will be required for duration of works.
2.	Demolish and rebuild external walls (both outer and inner leaves) down to foundation on a phased basis and re-render.	10 % to 25 % less expensive than Option 1. Sign off of works by a competent professional without reservation is possible.	Elaborate temporary works necessary. Alternative accommodation will be required for duration of works.
3.	Demolish and rebuild external walls (both outer and internal leaves) down to top of rising wall on a phased basis and re-render.	15 % to 30 % less expensive than Option 1. Sign off of works by a competent professional may be possible.	Detailed assessment of the condition of any retained rising wall (above and below the DPC level) required. Elaborate temporary works necessary. Possible reservations to sign-off regarding long term durability of rising walls. Alternative accommodation will be required for duration of works.
4.	Demolish and rebuild external walls (outer leaf only) down to top of rising wall on a phased basis and re-render.	70 % to 75 % less expensive than Option 1. Occupant relocation may not be necessarily essential. Sign off of works by a competent professional may be possible.	Detailed assessment of the condition of any retained rising wall/ inner leaf (above and below the DPC level) required.
5.	Take down and rebuild outer leaf of affected walls only and re-render.	Less expensive than Option 4. Occupant relocation not necessary.	Detailed evaluation of the retained rising wall/inner leaf (above and below the DPC level) required. Reluctance to sign-off by competent professionals. Problems may emerge in other walls.
<p>NOTES:</p> <p>The cost comparison presented in the Table is based on a preliminary costing commissioned by the Panel for:</p> <p>a) Dormer Bungalow, 3 Bedroom, 187,7 m² (2 021 sq.ft), and</p> <p>b) Two Storey, 4 Bedroom, 141 m² (1 520 sq.ft).</p> <p>Other technical solutions may exist.</p>			

5 THE NEGOTIATION OF THE PURCHASE PRICE AND THE INDEPENDENT VALUATION REPORTS

- 5.1 In this Section, we set out our commentary in relation to our review of the purchase negotiation process and the independent valuation reports obtained by the Council.
- 5.2 Our review of the Council's files shows that prior to 15 November 2019, the Council began negotiating the price with the owner of the five houses on the basis that it suspected the five houses could have had defective blocks. The Council believed a semi-detached house without defective blocks was worth €130,000 in 2019, and a detached house €140,000. The Council presented a reduction of €30,000 per house to the vendor if there were defective blocks, which in their view was based on a worst-case scenario of having to remove and replace the external leaf of each house (as had been carried out by the Council on another unrelated housing unit). The negotiation was led by the engineers and negotiated with the vendor's estate agent. On 15 November 2019 the vendor (having been aware the properties had 18.4% muscovite) asked for €630,000. Ultimately, the vendor's estate agent negotiated with the Council and agreed €600,000 for the properties on 22 November 2019.
- 5.3 Independent valuations were carried out on 9 December 2019, which also valued the five houses at €600,000. We note the valuations are the same as the values that had been negotiated at the time by the Council.

BDO Commentary

- 5.4 BDO has reviewed documents on the Council's files that in our view demonstrate there was segregation of duties between the Council staff who were responsible for management of the long-term lease directly with the landlord (who was also the vendor), and the Council staff who were tasked with negotiating the purchase price with the owner. The documents we reviewed include written correspondence between the Council staff and the owner, and the Council staff and the Council's appointed conveyance solicitor, confirming that any direct discussions with the owner were only in respect of the lease and not the purchase.
- 5.5 BDO is satisfied that property valuations were carried out by an independent estate agent licensed by the Property Services Regulatory Authority.

6 THE CONVEYANCE PROCESS AND THE APPLICATION TO THE DEPARTMENT OF HOUSING FOR THE FUNDS

6.1 In this Section, we set out our commentary on our review of the Council's conveyance process and its application to the Department of Housing for funding.

Conveyance process

6.2 We note from our review of the files that the conveyance process was managed separately by the Housing Capital Department (i.e., separately from the Council department which had managed the 10-year lease arrangement directly with the owner). The Council instructed an external solicitor for the conveyance. The Council's conveyance solicitor began sending pre-contract enquiries to the vendor's solicitor on 18 February 2020.

6.3 Our review of the Council's files shows that the purchase process was protracted throughout 2020 as the Department of Housing did not grant approval until October 2020. During this time, the owner sought to renegotiate the price, and the Council staff instructed the Council's conveyance solicitors to withdraw the contract. The purchase completed in March 2021, at the previously agreed price of €600,000.

6.4 During the conveyance process, a Council staff member was requested to conduct an inspection of the property in November 2020 and stated in an email "The properties have MICA and will require significant remedial work. The matter has been addressed prior to my appointment...thus, I will not comment further." BDO understands that this email has been scrutinised in the public arena under the Freedom of Information (FOI) Acts insofar as it refers to the five houses as having Mica. We have discussed the contents of the email with both the writer and the recipients responsible for conveying the condition of the five houses to the conveyance solicitor. We are satisfied that the writer wished their views to be recorded on the Council's file in good faith, so that if subsequent decisions were taken following their inspection, then there would be a record on file of the condition of the five houses that they had considered at that time. Subsequent to the date of the abovementioned email, the Council staff member informed BDO that they have since become aware of the prior geological tests that had been undertaken in 2019 and have been involved in the remediation and monitoring of the houses post acquisition, which have prolonged the life of the five houses until such times as the defective blocks may cause further deterioration at an unknown date in the future. BDO has reviewed the correspondence between the Council and its conveyance solicitor and is satisfied that the query response was further contextualised and included references to "some level of cracking" and a "potential risk of further degradation with freeze/thaw action". The

Council has informed us that it is was satisfied that between 2019 and the completion date that the position remained constant.

Department Approval

- 6.5 Approval by the Department of Housing was granted on 9 October 2020 and was conditional on the Council being satisfied as to the condition of the five houses, which they were, having commissioned the geological tests in 2019 and having been inspected by the Council.
- 6.6 On 4 March 2021, the Council sought approval for the drawdown of the funds for the purchase. As part of its submission process, the Council stated on a form provided to the Department that the houses were of “Good condition, improvement works required” which the Council believed was consistent with its assessment carried out in 2019, but which in our view could have been qualified by reference to the geological tests that had been conducted in 2019.
- 6.7 The Council notified the Department of its consideration of the condition of the five houses on 18 March 2021, which we note was after the purchase completion date. We find that the written notification to the Department on the condition of the five houses could have been qualified and/or could have included the details of the geological tests the Council had carried out in 2019. BDO notes that in respect of new build houses which commenced being purchased by the Council in 2021, such information is being provided to the Department.

BDO Commentary

- 6.8 BDO is satisfied that there is documentary evidence that demonstrates there was appropriate segregation of duties at each stage of the leasing, inspection, approval and conveyance processes. We are satisfied from our review of the Council’s files that there has been no attempt to cover up or conceal evidence of the status of the properties on the Council’s files, as all documentation referred to in this report has been made available to BDO. All documentation provided to us has been previously made available to interested parties under the Freedom of Information (FOI) Acts (subject to the provisions of those Acts) and are available to the Department of Housing or any other third party for inspection, as may be required by law.

