

**MINUTES OF THE SPECIAL MEETING OF DONEGAL COUNTY COUNCIL
HELD ON MONDAY 9TH JULY, 2021 (ONLINE)**

C/122/21 MEMBERS PRESENT

Cllrs J Murray (Cathaoirleach), L Blaney, K Bradley, C Brogan, P Canning, T Conaghan, D Coyle, G Crawford, N Crossan, T Crossan, A Doherty, G Doherty, L Doherty, R Donaghey, M Farren, M T Gallagher, M Harley, N Jordan, J Kavanagh, D M Kelly, N Kennedy, M C Mac Giolla Easbuig, F Mc Brearty Jnr, M Mc Bride, M Mc Clafferty, M McDermott, I Mc Garvey, N Mc Garvey, P Mc Gowan, B McGuinness, M McMahan, G Mc Monagle, A Molloy, M Naughton, J O'Donnell, J S Ó Fearraigh, and B Sweeny.

C/123/21 OFFICIALS IN ATTENDANCE

John McLaughlin, Chief Executive, Joe Peoples, Director of Housing, Corporate and Cultural Services / Meetings Administrator, Liam Ward, Director Community Development & Planning Services, Brendan O'Donnell, A/Director of Roads & Transportation, Garry Martin, Director of Economic Development, Information Systems & Emergency Services, Michael Mc Garvey, A/Director of Water & Environment, Róise Ní Laifeartaigh, Rannóg na Gaeilge, Frances Friel, Communications Officer, Anne Marie Crawford, Staff Officer, Corporate.

C/124/21 TO DISCUSS THE MICA CRISIS IN DONEGAL AND PUBLIC CONCERN WITH THE DEFECTIVE CONCRETE BLOCKS GRANT SCHEME

Commencing proceedings the Cathaoirleach said that there was significant public interest in the meeting given the emotive nature of the mica issue. He welcomed the elected members, the executive and members of the media to the meeting. Addressing the members of the public present, he confirmed, that they could not participate in the meeting.

He said that he hoped the meeting would provide a platform for the issue to be discussed in an open, transparent and democratic way.

He acknowledged the efforts of all involved with the mica campaign, and in particular those who had travelled to Dublin on the 15th June, all of whom had conducted themselves with great dignity. The march, he said, had been productive and he extended best wishes to those selected to negotiate on behalf of the Mica Action Group. It was disappointing, he added, that the Chair and/or the Vice-Chair of the Mica Redress Committee had not been afforded the opportunity to sit on the Working Group.

He reiterated his commitment to make the mica issue a priority during his term in office. Alluding to recent serious allegations made about Council staff in online videos, he confirmed that many Council staff were also impacted by mica and that it was imperative that all the people of Donegal worked together to secure 100% redress.

There had been, he noted, unanimous endorsement at the last Council Meeting for the holding of a public enquiry. Accountability was needed, he said, with regard to the role of all those involved i.e. the block maker, the quarry owner, the local authority and all involved in implementing the relevant legislation. Clarification was needed, he said, as to why the Council bought houses which had mica. Concern was also expressed that the local authority was still purchasing goods from manufacturers who had supplied/made defective concrete blocks.

Delays in accessing the current scheme were a major issue and he thus called for the process to be speeded up and additional resources allocated to facilitate same. He called also for the planning process to be expedited for those whose homes needed to be rebuilt. Concern was expressed that Council tenants were not receiving sufficient information in relation to what was happening with the Council's social housing stock.

There was general acknowledgement that the housing rental market would be severely impacted in the months and years ahead.

He called on Cllr Mc Brearty to address the meeting and said that he would facilitate any member who wished to contribute to the debate.

Cllr Mc Brearty thanked the Cathaoirleach for facilitating the meeting and welcomed the fact that the public had access to view the proceedings. This was a topic, he advised, which would require ongoing consideration and cited the need to keep the momentum going so as to highlight the ongoing stress being experienced by many families throughout Donegal. He called for members to meet in Oireachtas style committee meetings for at least a month to address the many issues raised.

He queried why remedial works were being recommended in many instances when it was clear that demolition as highlighted by Dr Mc Closkey was required. Any engineer who recommended remediation, he contended, should be struck off and the Council needed to stop forcing people into going down the remedial work route. An error had been made initially, he said, when a number of options were proposed for the carrying out of remedial works when in fact Option 1 demolition was the only option as outlined in Dr Mc Closkey's advice. A full presentation was needed as to how the applications for the Defective Concrete Blocks Scheme were being processed and as to how specific conclusions had been reached together with a full explanation as to what directions had been provided by the Department.

He read into the record the disclaimer at the beginning of the Expert Panel's report which effectively confirmed that the panel itself did not request or carry out tests on properties with mica and was dependent on the information supplied by the relevant homeowners. With no responsibility for the accuracy of the reports in question the panel was not in a position to apportion any blame or responsibility. This, he contended,

was deliberate so as to protect themselves from any legal actions going forward. Debate, he added, was needed with regard to the failure of the Expert Panel to fully investigate the mica scandal.

He expressed concern that not all of the information had been disclosed to the Expert Panel and contended that the engineers who gave advice to the Expert Panel were not experts in the field. The panel, he said, were effectively covering up for the State.

He proceeded to query why correspondence from Dr Ambrose Mc Closkey and forwarded to the Chair of the Mica Redress Committee, Cllr Martin Mc Dermott had not been circulated to the vice-chair of the committee, the committee itself and all of the elected members. He thus contended that the Chair of the Mica Redress Committee had withheld vital information from members on how bad the situation really was. Dr Mc Closkey, he stated, had expressed concern about the Defective Concrete Blocks Scheme and in particular the standards that engineers were being asked to follow. It was noted that he had particular concerns in relation to the remediation options and was firmly of the opinion that demolition was the only prudent option at this juncture.

Cognisance, he said, needed to be taken of the impending environmental damage given the large amount of construction waste that would be generated in the months and years ahead.

Action, he advised, needed to be taken against quarry owners who operated unauthorised developments. He called for the members to be supplied with daily updates in relation to the activities of quarry owners. He also queried as to why the Council Solicitor was recommending going to the District Court for an injunction against a particular quarry owner when in fact an application should have been made to the High Court.

There was concern also that the Council was still buying blocks from the offending quarry.

Cllr Mc Brearty contended that the only way forward was legal action and said that he had put a legal team in place to fight for redress and adequate compensation for mica victims. He said that he had considerable expertise in dealing with allegations of corruption and would pursue the State on behalf of every victim impacted by the mica crisis. He called on members to donate €100 each towards the initial funding of this campaign.

The Council, he stated were not helping their tenants in the way that they should and he said that remedial works were in effect a plaster of paris fix and not satisfactory going forward.

Transparency was a key element of public office, he added, and called on members to step up to their civic responsibilities and show the public that they were serious about tackling the challenges faced by many

homeowners. There should be no hiding behind libel laws or Standing Orders, he added, and it was imperative that members were in a position to ask all the relevant questions.

He raised the following queries and asked that a comprehensive response be provided. These included

- Which members of the Council and Council staff had met with the Expert Panel?
- Who on behalf of the Irish Concrete Federation met with the Expert Panel?
- What was the representation from Mayo County Council?
- When Cllr Brogan and Cllr Mc Monagle were in the Chair did they engage with the Expert Panel?
- What members, officials and TDs met with the Expert Panel? Details requested as to how many of the representatives outlined had supported the 90/10 solution?
- What blocks were used in the construction of the Aura Leisure Centre?
- Why are remedial works taking place at the Aura? even though no engineer can sign off on remedial works? Who signed off on same?
- Were there any tests done on the concrete foundation of the Aura?
- What reports are there in relation to the dangerous chimney at the Aura?
- How many houses were bought from Cllr Brogan that could have mica?
- Whether or not the Vice-Chair of the Mica Redress Committee had received a copy of the correspondence from Dr Mc Closkey.

Cllr McDermott informed the meeting that there had been no cover up on his part and that he had worked extremely hard over the last couple of years on the mica issue. He said that the letter from Dr Mc Closkey dated the 23rd February, 2021 was a personal letter forwarded to his home address and that he had sent a copy to the Chief Executive, to Mr Patsy Lafferty, Area Manager Housing & Corporate and to the Executive in Donegal County Council. Arising from this, he said, a comprehensive answer had issued to Dr Mc Closkey and that he would have no problem in sharing this correspondence. It was unfair, he said, to suggest that he

had not passed the letter to anyone else. He said it very disappointing to be accused of having done nothing with the correspondence.

Cllr Mc Dermott said that it was a terrible situation and that he was fully in agreement with many of the issues raised by Cllr Mc Brearty. It was clear, he said, that questions needed to be asked and that a public enquiry was warranted.

He said that he had nothing to hide and had worked hard for the homeowners concerned, helping many with their applications. He said that he deserved an apology for the manner in which he had been treated. The comments today, he said, were unfair given the effort he had made to address the issues raised by his constituents. He confirmed that he had never met with the Expert Panel.

Cllr Albert Doherty said that Cllr Mc Dermott had clarified the situation with regard to the correspondence from Dr Mc Closkey and that he himself had not received any correspondence of a private nature on the matter.

There was general agreement that a critical response was required at this stage and a unified approach required. Donegal County Council, it was noted, were the conduit that could deliver the scheme so that those most severely impacted could be looked after first.

It was noted that the mica issue had been raised at every opportunity by members of Donegal County since 2013.

Members acknowledged the work done to date by the Mica Action Group and wished them well in their pursuit of 100% redress.

A number cited the need to have all impacted by the mica crisis included in the scheme including second homes, rental properties, commercial buildings , community centres, health centres etc.

There was acknowledgement also of the good work carried out by the Defective Concrete Block team within the Council. It was suggested that the civil service nationally were blocking progress on the overhaul of the scheme.

Members outlined their support for Cllr Mc Dermott in his capacity as chair of the Mica Redress Committee. They expressed full confidence in the Executive and the staff who administered the Defective Concrete Blocks Scheme.

A lengthy debate ensued during which members raised a number of issues. These included:-

- That the mica crisis was a national issue and that Donegal County Council should not be left to deal with the matter on its own.
- A public enquiry was needed to address the many issues raised..

- There was support for the work of the Mica Redress Committee and their continued quest for 100% redress.
- Equality and parity with the Pyrite Scheme needed.
- Representative from the Mica Redress Committee needs to be included on the newly formed working group.
- Council tenants need clarification with regard to their situation and Liaison Officers need to be put in place to assist tenants and home owners. Concern that HAP tenants/ landlords are presently locked out of the scheme.
- Re-homing will be a major issue and a critical response to this problem is urgently required.
- United approach and clear strategy required in terms of what is needed to sort the problem. Must look at the skills set required together with the availability and cost of materials and construction works once homes are ready to be rebuilt.
- Call should be made now for people with the relevant skills to return home and assist with the rebuilding process. Concern expressed however that this could be impacted by the shortage of housing accommodation in the county.
- Log cabin option should be explored.
- Public buildings must be examined now and testing commenced so that specific plans can be put in place with the minimum of disruption.
- Outlined the need for a scheme that would allow vacant homes to be renovated and made available for use by mica affected families given that there were presently over 25,000 vacant homes in Donegal.
- Availability of rental accommodation will be a problem going forward with spiralling costs the main concern.
- Environmentally sensitive location(s) for the disposal of construction waste a priority. Suggested that at least two be designated in Inishowen. Environmental impact must be included for consideration on the agenda of the next Climate Action & Environment Strategic Policy Committee meeting. Need to examine whether or not it is possible to use demolition waste for other purposes.
- Planning must be expedited for homeowners seeking to rebuild and a strategy for dealing with rebuilds implemented.
- Mortgage lenders, insurance companies, quarry owners all need to step up to the mark in relation to their responsibilities.
- Current comments on social media unhelpful as this is doing nothing for the cause. Unsubstantiated allegations and innuendo on social media are detrimental to the cause. Call for relevant information to be forwarded to the proper authorities where there is cause for concern.
- All mica affected properties must be brought within the terms of the scheme.
- Suggested that a Quarry Register be set up similar to that in operation within the waste disposal sector.

- Cognisance needs to be taken of the fact that in many of the housing estates concerned blocks were sourced from a number of suppliers and that this could have an impact on the testing process going forward.
- General indications are that the extent of the problem is widening throughout Donegal.
- Long term impact on families needs to be taken into consideration and the fact that in many cases third level plans for the children of the families concerned will be affected.
- All Oireachtas members in the county should be asked to visit Donegal to see the devastation for themselves.

It was noted that issues raised at the Mica Redress Committee regarding the processing time for applications had been taken on board and a concerted effort made to reduce the processing time from 12 weeks to four.

The following questions were raised by members:-

- Why were remedial works being recommended when it should be demolition as highlighted by Dr Mc Closkey?
- Which members of the Council and Council staff met with the Expert Panel?
- Who on behalf of the Irish Concrete Federation met with the Expert Panel?
- What was the representation from Mayo County Council?
- Clarity sought as to the Council's role in inspecting and testing the materials used in concrete blocks and the quarries that the materials originated in up to the present day.
- Who was responsible for the licensing of quarries in the past and going forward?
- Did the Council have a role in carrying out testing in the offending quarry since mica became an issue?
- Was any action taken against the offending quarry?
- Why and how was the crisis allowed to happen?
- What is the strategy for dealing with the demolition scenario and what needs to be put in place at this juncture?
- What reassurance is there that the blocks we are using today do not have mica, pyrite etc and when was the use of defective blocks stopped?
- Requested that all further information requests be looked at and an effort made to ensure that one comprehensive request only for additional information is sent back to the applicant?
- Call for all Mica Redress Committee meeting minutes to be circulated to the members by email.

- Update requested in relation to the appointment of Liaison Officers given that contact has been made with the Department in relation to additional staffing.
- What resources do the Council have on the frontline to deal with the crisis?
- Request that meeting take place with the HSE to see what mental health supports could be put in place.
- Query on whether an update had been received regarding the second legal opinion sought at the meeting on the 31st May.

Cllr Mc Brearty at this juncture said that he had previously brought it to the attention of the Chief Executive that concrete from Cassidy's was being used in a project in Rathmullan despite the fact that a resolution had been passed to stop using Cassidy's products and to withhold all monies owed.

Responding to Cllr Mc Dermott, he said that he had a duty to make the information relayed to him available to members and staff as a matter of public interest. He said that he accepted that Cllr Albert Doherty had no knowledge of the correspondence forwarded to Cllr Mc Dermott.

Cllr Mc Dermott stated that that he had never met with the Expert Panel.

The Chief Executive said that he fully acknowledged the terrible situation facing many families but stressed that the role of the Council was to administer the Defective Concrete Blocks Scheme on behalf of the Department and to ensure that its own social housing stock was protected. The Government, he advised, had asked Donegal County Council to administer the scheme for them and the Council had taken on this additional work so as to be helpful to the people of Donegal. It was recognised, he said, that there were deficiencies with the scheme and that the newly formed working group were liaising with the Government to secure a revised scheme. It was essential, he said, that the Council decided collectively on whether or not it would be part of any solution and in what capacity.

Issues such as procurement advice, the processing of scheme applications and the appointment of Liaison Officers all needed to be considered in tandem with the Council's plan for its own housing stock.

Mr Joe Peoples, Director Housing, Corporate & Cultural Services said that this was an unforeseen situation and that it was important that everybody worked together to achieve the best outcome. The Council, he added, would assist citizens to the best of its ability.

The scheme itself, he advised, was complex and many issues had arisen in the processing of applications. There were challenges, he said, with

regard to remedial works proposed by engineers, but that clarity was beginning to emerge in relation to same. He said that if any individual had concerns in relation to their application they could contact him directly and he would follow up. It would be prudent, he advised, to await the deliberations of the Working Group established by the Minister to review the scheme.

The legal advice on procurement, he informed members was currently being prepared and would be available to members at the Plenary Council meeting on the 19th July.

It was confirmed that tests had been done on the blocks from a number of council houses in line with the national standard and that it was hoped to prepare individual work plans for each. These, he said, should be completed shortly and would form the basis for the overall indicative cost of remediating the Council's housing stock. It was noted that approximately 1000 houses were affected but that this was not a definitive figure and was subject to change. In order to deliver this body of work it was intended, he said, to put a dedicated team of staff in place to progress and manage the work.

Mr Liam Ward, Director Community Development & Planning Services said that he shared the concern for those impacted by mica and that staff in the planning service were not immune to the difficulties being encountered. They were, he advised, anxious to help and play their part in dealing with the crisis.

He alluded to a number of issues that fell within the remit of the Planning Department:-

With regard to a particular quarry in the Lifford/ Stranorlar Municipal District, he advised that there was particular frustration in getting the right outcome and that the matter was before the court with another hearing scheduled for next week. As this was a live enforcement matter it was not possible to provide any other information at this juncture, he added.

The Council, he advised had no role in the period up to 2013 in the certification of concrete products. The general view, he added, was that quite a number of the houses affected would have been constructed prior to 2013. The principal regulations in place at the time, he confirmed, were the European Communities (Construction Products) Regulations, 1992. (SI 198 of 1992) and the Council's role as a Building Authority was to act as the principal enforcement agency for investigating and prosecuting incidences of non-compliance. Thus it was confirmed that the Council's role in the testing of concrete products up to 2013 was limited to those tests necessary to establish if there was any non-compliance with the Regulations. The Local Authority it was noted had powers assigned to it

with regard to the making of a recommendation to the Minister with regard to the prohibition of products generally being placed in the marketplace. It was noted that no such reports had been made to the Minister up until 2013.

From 2013 it was confirmed that the Council had no role in certifying concrete products and that its involvement in testing products was limited to its role as the Market Surveillance Authority (MSA) for County Donegal assigned under the Construction Products Regulations, 2013. Donegal County Council in its capacity as the MSA, he confirmed, had written to all steel and concrete manufacturers outlining their obligations under the 2013 regulations and seeking evidence of CE markings and declarations of performance.

The National Building Control and Market Surveillance Office was established in 2014 and had provided oversight, support and direction for the development, standardisation and implementation of building control in the 31 Local Authorities.

Donegal County Council were in regular contact with the NBCMSO and in the last couple of weeks they had carried out inspections in a number of quarries in the Letterkenny and Inishowen area. It was confirmed that the details of these would be made available as soon as the Council received them.

Donegal County Council's Planning Department, it was confirmed, were anxious to assist in any way that they could and had been in contact with the Department regarding the interpretation of the various planning regulations and as to whether or not there was any way of simplifying the planning process for mica applicants.

The Director of Service said that an update would be provided to members in relation to the extension granted to the operators of the quarry at the centre of the mica issue. He noted that there were a number of safeguards in place now that had not existed previously, and that there was also a requirement for construction works to be signed off by an Assigned Certifier as a safeguard against sub-standard building practices. Mr Michael Mc Garvey, Director of Water & Environment said that he was in agreement with the sentiments echoed by the Chief Executive and the Director of Community Development and Planning Services. The issue of construction waste, he said, had been added to the agenda for the next meeting of the Climate Action & Environmental SPC in order to look at options for dealing with the anticipated large amounts of construction waste and possible locations for the disposal of same. Clarity was needed, he added, with regard to the possible reuse of some of this material. This was something, he said, that he would be looking for further direction on a national level.

Responding to a number of queries in relation to the Aura Leisure Centre, he informed members of the following;-

That cracking in the flume tower of the Aura Leisure Centre had become noticeable in early 2020 and had been observed and monitored for over a year. A detailed inspection in 2021 had, he confirmed, found that the block work in and around the cracking was of poor structural quality and presented a risk. The decision was then taken to remove the block work (outer leaf) from the tower and reconstruct this outer leaf with new block work in the interest of public safety. It was noted that in the case of the flume tower the block work was removed down to ground beam level.

A further visual inspection of the exterior of the centre did, he confirmed, find some cracking in other areas but not to the extent of the flume tower and was not of immediate concern but would necessitate further monitoring.

An independent assessment of the building, he confirmed, had been sought to confirm that the building is safe for use and to make recommendations with regard to the remainder of the building in terms of monitoring and any other remedial action.

Attention was drawn to the fact that the building was supported via piled reinforced concrete foundations. Confirmation was also provided that the block work was predominantly infill panelling and as such was not load bearing.

Mr Mc Garvey said that as more information became available it would be circulated to the members.

The Chief Executive said that the purpose of the meeting had been to show openness and transparency and that a chart of the questions raised together with the relevant replies would be posted on the Council's website.

Any additional queries, he said, could be forwarded through the Cathaoirleach.

The Cathaoirleach noted that there had been a commitment from the Chief Executive to publish the relevant responses to all the queries raised and to make the information available on the website.

Cllr Mc Bride clarified for the benefit of those participating in the meeting that he was not recommending the replacement of the outer leaf only as a solution and apologised if his comments had been misinterpreted.

Cllr Farren called on Cllr Mc Brearty to withdraw his remarks in relation to the Chair of the Mica Redress Committee and said that it was imperative that Cllr Mc Dermott and Cllr A Doherty were allowed to sit on the newly formed working group.

Cllr Tom Conaghan thanked the Cathaoirleach for his tolerance and said that some of the comments made during the meeting were uncalled for and unnecessary. It was time now for action not time wasting.

The Cathaoirleach thanked members for their patience and said that the meeting had provided members with an opportunity to discuss and become better informed in relation to the issues that were out there. He said that responses to the questions raised would be collated and that the Corporate Policy Group would meet with the Oireachtas members so that a united front could be presented on the mica issue.

This concluded the business of the meeting.