

# **DEFECTIVE CONCRETE BLOCK SCHEME: PLANNING EXEMPTIONS AND NON-MATERIAL CHANGES RELATED TO THE APPROVED REMEDIATION OPTIONS.**



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**Remediation of Dwellings Damaged by the Use of Defective Concrete  
Blocks Act 2022, &**

**Remediation of Dwellings Damaged by the Use of Defective Concrete  
Blocks Regulations 2023**

**November 2023 Advice Note updates in RED**

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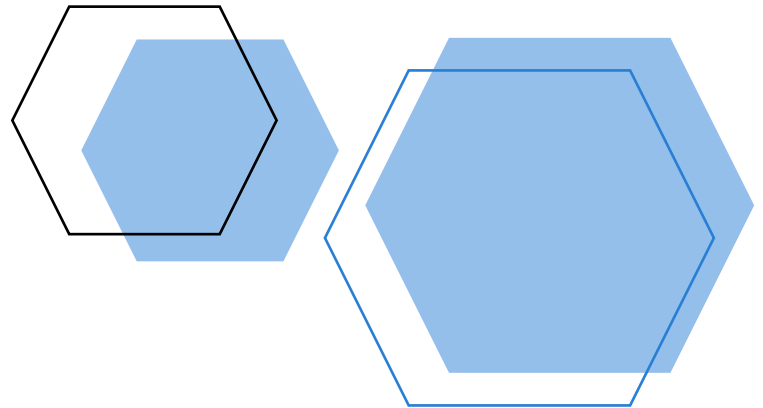
Scenarios and FAQs





# CONTEXT

The commencement of this legislation seeks to enable the remediation options available for homeowners. Related to those mechanisms providing for the remediation of homes, there are associated matters for planning authorities to consider in providing a means for homeowners to ensure that their homes are consistent with their original planning permission.



This advice is provided to:

- (i) ensure a consistent approach to the planning advice given to homeowners,
- (ii) ensure that robust opinions in relation to potential non-material changes are provided, and
- (iii) ensure that the regularisation of non-compliant aspects of a previously permitted dwelling is undertaken in a timely fashion.

For queries, please contact Planning Services on 074 9153900 or via [planning@donegalcoco.ie](mailto:planning@donegalcoco.ie)





# SCENARIOS & ADVICE

The scenarios and questions outlined below represent the responses of Donegal County Council to matters raised by homeowners and agents in recent months. These have been reviewed in the context of the recently published legislation/regulations. While it is understood that there are likely to be site-specific issues that will arise, the Planning Service remains available to respond to these specific planning matters.

All the scenarios below are based on the presumption that there is clearly demonstrated material compliance with the scope of the parent planning permission in each case or that there is a path to regularising non-compliant aspects of the dwelling.

The provisions of S28 of the 2022 Act apply in that works associated with an approved remediation option are exempted development and that it facilitates the assessment of non-material modifications to a permitted dwelling under the Planning and Development Act.

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The conditions of a relevant parent permission for a home must be complied with unless non-material changes are advised as being acceptable or have been regularised.

Planning applications to retain ancillary matters such as effluent treatment systems, revised entrance arrangements, etc., are to be considered separately to the provisions relating to potential non-material changes associated with the structure of the family home.

Where applications for the demolition and rebuilding of a home are submitted by a homeowner (separate to the provisions of S28 of the 2022 Act) these will be assessed as a replacement dwelling having regard to current policy. Applicants/agents are advised to ensure that any such application is comprehensive and in accordance with the requirements for the submission of a valid application under the Planning Act. Current practice is to identify these applications as ‘significant’, and they will be managed in a way that ensures as early a decision as possible after the mandatory 5-week public consultation period.





# SCENARIOS/FAQ

The advice below looks at a range of examples for homes located in both town and rural settings and is provided to give guidance on how to approach the planning matters associated with the remediation options set out in the 2022 Act:

	Scenario/FAQ	Response
<b>A. Towns &amp; Villages:</b> <b>Context:</b> Smaller urban sites abutting third party residential properties and public utilities (water, wastewater).		
1	Semi-detached/Terrace dwelling; complete demolition and rebuild	<p>The demolition and rebuild of a dwelling in accordance with the parent permission is permissible and is considered as exempted development under S. 28 of the 2022 Act.</p> <p>Due to the likely smaller sites and higher density of development in urban areas there is very limited scope for design and site layout changes to be treated as non-material. Any departures from the terms of the parent permission are likely to need retention planning permission.</p> <p><b>In the case of semi-detached or terraced dwellings, proposals to</b></p>

		detach a DCB affected dwelling from the existing configuration are (i) material changes to any parent permission and, (ii) are not likely to receive a favourable planning permission given the direct impacts on adjoining properties that arise.
2	Detached dwelling; complete demolition and rebuild.	The demolition and rebuild of a dwelling in accordance with the parent permission is permissible and is considered as exempted development under S. 28 of the 2022 Act. There is limited scope for design and site layout changes to be treated as non-material. Such changes are likely to be associated with very minor changes to, for example, fenestration/door openings, however the residential amenity and privacy considerations of abutting properties must be assessed.
3	Partial demolition and rebuild under scheme options 2 to 5.	The demolition and rebuild of a dwelling in accordance with the parent permission is permissible and is considered as exempted development under S. 28 of the 2022 Act. There is limited scope for design and site layout changes to be treated as non-material. Such changes are likely to be associated with very minor changes to, for example, fenestration/door openings, however the residential amenity and privacy considerations of abutting properties must be assessed.
<b>B. Rural one-off dwellings</b>		
<b>Context:</b> One-off rural dwelling on a separate site with separate effluent disposal, access, etc		
1	Dwelling (0.5 acre + sites); on-site effluent treatment. No directly abutting residential properties. Demolition and rebuild proposed.	The demolition and rebuild of a dwelling in accordance with the parent permission is permissible and is considered as exempted development under S. 28 of the 2022 Act. There is a broader scope for design changes to be treated as

		non-material. Where no third-party considerations are present (residential amenity or privacy for example) minor alterations to the location of the home on the site can be considered.
2	Dwelling (0.5 acre + sites); on site effluent treatment; 1 or more directly abutting residential properties. Demolition and rebuild.	The demolition and rebuild of a dwelling in accordance with the parent permission is permissible and is considered as exempted development under S. 28 of the 2022 Act. There is scope for design changes to be treated as non-material. However, the residential amenity and privacy considerations of abutting properties must be assessed.
3	Non-compliant effluent treatment, access or similar matters.	An application for retention permission should be submitted separate to any considerations relating to the home under S28 of the 2022 Act.
4	Partial demolition and rebuild under scheme options 2 to 5.	The demolition and rebuild of a dwelling in accordance with the parent permission is permissible and is considered as exempted development under S. 28 of the 2022 Act. There is scope for design changes to be treated as non-material.
<b>C. Frequently Asked Questions.</b> <i>[Based on queries received]</i>		
1	Do I need planning to bring a mobile home / modular home on site with connection to existing services for the duration of the build?	Yes
2	Do I need retention for any mobile home/modular unit/conversion of garage/store etc, or similar of the above if already placed on site?	Yes
3	Do I need planning for demolition and replacement dwelling if I am building like for like?	No, if the proposal is in accordance with the provisions of S.28 of the 2022 Act (i.e. works associated with an approved option under the scheme)

4	Do I need planning for demolition and replacement dwelling if I am building like for like even though I have not built the dwelling that I had planning granted for in the first place?	Yes. Where it is not proposed to rebuild the dwelling in accordance with the original permission, retention of the unauthorised structure must be sought as part of the revised proposal (i.e. seek permission to (i) retain the dwelling as constructed, (ii) demolish the dwelling and (iii) construct a new dwelling)
5	Do I need to regulate the complete site before applying for a grant if my site entrance or septic tank etc. is not in complete compliance, if I am building like for like?	See response to item <b>B3</b> above.
6	Do I need planning permission for a wastewater treatment system if I am increasing the population usage of the dwelling?	Possibly. Current EPA guidance applies and is informed by the intended increased effluent loading. This will be assessed on a case-by-case basis.
7	Do I need planning permission for change of house type only if I am changing house type?	Yes, where the house type/design is materially different from the home permitted by the parent permission. (e.g., downsizing)
8	Can I receive planning permission for the demolition of a dwelling even if the original dwelling is not in compliance with Planning without having to obtain retention first?	No. Note that where it is <b>not</b> proposed to rebuild the dwelling in accordance with the original permission, retention of the unauthorised structure must be sought as part of the revised proposal (i.e. seek permission to (i) retain the dwelling as constructed, (ii) demolish the dwelling and (iii) construct a new dwelling)
9	If I am being asked to build to 2007 building regulations does the same apply with planning regulations regarding vision lines and septic tank requirements?	In cases where an application to retain an effluent treatment plant or revised access arrangements is required, current standards regarding vision lines and/or effluent disposal arrangements apply.
10	Do I need planning for repairs to a building if I am repairing like for like?	No, in such cases where the proposal is in accordance with the provisions of S.28 of the 2022 Act (i.e. works associated with an approved option under the scheme are exempted development)

11	Do I need planning for repairs if I am changing the look of the front of the house?	Yes.
12	Do I need planning for internal repairs?	No.
13	Do I need planning if I am removing the chimney?	In most cases it is likely that this would be considered as a non-material modification. Such instances will require case-by-case consideration having regard to the nature and location of the site and relationship with adjacent properties abutting or in the vicinity of the site. Consultation with the Planning Authority before commencing works is advised.
14	The existing house is a semi-detached house. Can I detach this from the adjoining house and rebuild?	No. The permission for the overall development was for two-semi detached dwellings and to permit this scenario would materially impact on the integrity of the adjoining house, would further limit the layout of the site itself, and would most likely not be in keeping with the overall development. It is not likely that planning permission would be forthcoming for this scenario.

### **Glossary of terms:**

**Parent Permission** – the planning permission under which the home was constructed.

**2022 Act** - Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Act 2022.

**Planning Act** – Planning & Development Act 2000 (as amended)

**Non-material change** – in general, any change to the parent permission that does not affect the external appearance of a development (that is affected by the use of defective concrete blocks) in a manner that significantly alters the external appearance of the structure, or the treatment of the site, and/or renders it inconsistent with the character of neighboring structures.