

# Media review



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## Judge refuses to evict Dublin family with eight-month-old baby from council house



Overtuned |

A council had claimed they did not meet the criteria for a tenancy of a two-bed house

A judge has refused to evict an eight-month-old baby, their parents and two siblings after a council claimed they did not meet the criteria for a tenancy of a two-bed house.

The decision by Judge James McCourt in the Circuit Civil Court today was met with applause by friends of the family and the agreement of People Before Profit TD Richard Boyd-Barrett and Councillor Melisa Halpen who had supported the family.

Dylan Mooney's wife Gemma burst into tears following Judge McCourt's decision to overturn an order of the District Court which had ordered her husband to hand back their home in St Kevin's Villas, Sallynoggin, to Dun Laoghaire Rathdown County Council.

Mr Mooney, a lorry driver, told his counsel Sean Beatty that eviction would be devastating for the family leaving them with nowhere to live and putting their eight-month-old baby on



the street.

Following Judge McCourt's decision and refusal to grant the local authority its legal costs in opposing Mr Mooney's appeal, Mr Boyd Barrett said: "I think this a right and just decision and prevents a family being made homeless. Clearly this was their family home."

Judge McCourt heard that Mr Mooney's mother at the age of 57 had come home from hospital in the last week of her fight against cancer to die in the presence of her family in the St Kevin's Villas home where she had lived with her son from his birth.

"She was more comforting to us than we were to her," Mr Mooney said. "There is a very sentimental attachment of our family with the house."

The court was told that in order for consideration of a new tenancy Mr Mooney had to meet the council's housing allocation policy whereby he had to have lived for five years in the house prior to his mother's death or to have lived for at least 10 of the 15 years prior to her death.

The council claimed he failed to meet all of the criteria, missing the 10 year requirement by a year and eight months.

He had moved back into the house and had been joined by his wife and two children. The baby had been born following their move without confirmation of any new tenancy.

The council described Mr Mooney to the court as a trespasser and had been granted a possession order in the District Court.

Judge McCourt told Mr Beatty, who appeared with Daly Khurshid Solicitors, that he was satisfied Mr Mooney had lived in the house for the required amount of time to satisfy the council's house allocation criteria. He had lived in the property for eight years and 10 months as an adult and for more than the alleged shortfall of 14 months as a minor.

"It is accepted by the council that Mr Mooney had been included in the rent assessment for his mother which is a significant factor," Judge McCourt said.

"I have enormous sympathy with any housing authority in trying to distribute meagre supplies of houses to satisfy the overwhelming demand. It is akin to the distribution of the five loaves and two fishes," he said.

"There aren't enough houses to go around and it is not the fault of local authorities. I don't like to see anyone skipping a queue but I don't accept that Mr Mooney was a trespasser."

Judge McCourt said the question was whether it was proportionate and reasonable to grant what was an eviction order and it was his view that it would be disproportionate and unreasonable in all of the circumstances and he would allow Mr Mooney's appeal but would



not make an order for costs against the county council.

“These are difficult cases but the facts in this case are unique. I have a lot of sympathy for councils which have little or no houses and yet have to deal with a problem not of their making. It is all very unfortunate but I do not think any use would be served by making an eviction order,” he said.





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## Mum bursts into tears as judge refuses to evict eight-month-old baby from Dublin home overturning court order



### HOME ORDER

- Published: 17:49, 22 May 2023
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A JUDGE has refused to evict an eight-month-old baby from its home - overturning an eviction order made by the district court.

Dun Laoghaire Rathdown County Council claimed that the baby, its parents and two siblings did not meet the criteria for a tenancy of a two-bed house in [Co Dublin](#).





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A judge has refused to evict an eight-month-old baby from its homeCredit: Getty Images -  
Getty





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Judge James McCourt agreed that it was right for the family to remain in their homeCredit: Collins Photo Agency

However, campaigners including People Before Profit TD Richard Boyd-Barrett and Councillor Melisa Halpen welcomed the decision of Judge James McCourt in the Circuit Civil [Court](#) as he agreed that it was right for the Mooney family to stay in their home in Sallynoggin.

Dylan Mooney's wife Gemma burst into tears following Judge McCourt's decision to overturn an order of the District Court which had ordered the family to return their home in St Kevin's Villas to the council.

Lorry driver Dylan told his counsel Sean Beatty that eviction would be devastating for the family leaving them with nowhere else to live and putting their eight months baby on the street.

Judge McCourt heard that the week before she died, Mr Mooney's mother had come home from hospital to pass away at her home in the St Kevin's Villas.

She had lived there with Dylan since he was born.

Mr Mooney said: "There is a very sentimental attachment of our family with the house."

The court was told that in order for consideration of a new tenancy Mr Mooney had to meet the council's housing allocation policy whereby he had to have lived for five years in the house prior to his mother's death or to have lived for at least 10 of the 15 years prior to her demise.

The council claimed he failed to meet all of the criteria, missing the 10 year requirement by one year and eight months.

### **Most read in the Irish Sun**

He had moved back into the house following his mother's death and had been joined by his wife and two children, before they later had another baby.

The council described him to the court as a trespasser and had been granted a possession order in the District Court.

Judge McCourt said: "It is accepted by the council that Mr Mooney had been included in the rent assessment for his mother which is a significant factor.

### **'ENORMOUS SYMPATHY'**





"I have enormous sympathy with any housing authority in trying to distribute meagre supplies of houses to satisfy the overwhelming demand.

"It is akin to the distribution of the five loaves and two fishes.

"There aren't enough houses to go around and it is not the fault of local authorities.

"I don't like to see anyone skipping a queue but I don't accept that Mr Mooney was a trespasser."

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# New Ballinteer communal gardens promote biodiversity

Gary Ibbotson

**BROADFORT Court residents and local school students have come together to create and grow new communal courtyard gardens in Ballinteer.**

Led by local residents Martin Moore and Anne Lynch, the initiative began after Moore moved to Ballinteer from Sandyford.

"The gardens here were in very poor condition on the account of Covid," he said.

"Our main aim in reinstating the gardens was to attract and reintroduce species, with emphases on insects and birds."

Moore, who has a passion for gardening and biodiversity, previously helped create an orchard and biodiversity gardens in Sandyford.

Lynch, a horticulturalist and neighbour of Moore's began working with him to develop the gardens on lands at the Saint John the Evangelist church and Our Lady's Boys and Our Lady's Girls National schools.

The project also aims to create a "wildlife corridor on church and school grounds in line with Dun Laoghaire-Rathdown County Council's Nature Recovery, Restoration and Reconnection initiative in the Biodiversity Action Plan," Moore said.

The duo recruited the help of the county council which allowed them to develop the gardens before teachers and students from the local national schools and other community groups got involved.

Work has been ongoing at the gardens for the past several months with Moore and company focusing on the health of the soil.

"This is crucial for healthy plants and wildlife," he says.

"The addition of organic substances with a multitude of biodiverse organisms lead to healthy plants.

"Covering the soil with mulch also helps greatly, as does minimal soil disturbance.

"This all helps in creating carbon sinks and contributed to reducing climate change."

Plants, flowers, fruit trees and vegetables are all being planted in the gardens with more varieties to come.

Moore and Lynch have also used the project to educate the local students on biodiversity, soil health, and carbon sequestration - the process of capturing and storing carbon dioxide.

"The gardens are really for the next generation," he says.

"They're for the boys and girls who are growing

up now and hopefully the gardens will be sustainable long into the future."



A variety of plants, flowers and fruit trees are planted in the gardens. PHOTO: PAUL REARDON.

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Aisling Couranane, John Egan, Principal of Our Lady's Girls NS Robbie Murphy, Nathan Zayed, Tara Ali, Bobby Lawlor, Deputy Principal of Our Lady's Boys NS Denise Dempsey, Tilly Mourne, Jamie Mullan, and Luke Costello at the communal gardens. *PHOTO: PAUL REARDON.*



Tara Ali (11) and Tilly Mourne (11) at the communal gardens. *PHOTO: PAUL REARDON.*