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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3192/21**

**APPEAL** by Derek Nolan of 35 Maywood Crescent, Raheny, Dublin against the decision made on the 1<sup>st</sup> day of December, 2021 by Dublin City Council to grant subject to conditions a permission to Pat McCann of 154 Claremont Court, Dublin.

**Proposed Development:** Retain rear garden single storey structure circa 49.5 square metres for storage and home office use at 154 Claremont Court, Dublin.

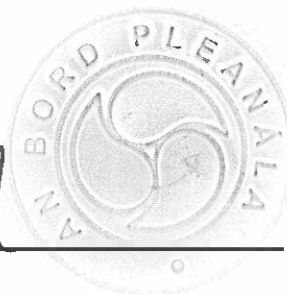
**Decision**

**REFUSE** permission for the above proposed development in accordance with the reasons and considerations set out below.

## Reasons and Considerations

Having regard to the Z6 zoning status governing the area of the site in which the structure is located, which has the objective "to provide for the creation and protection of enterprise and facilitate opportunities for employment creation", it is considered that the proposed development would contravene materially a development objective indicated in the development plan for the zoning of land of the use solely or primarily of particular areas for particular purposes. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. Furthermore, the comments by the Property Management Section of Dublin City Council that the lands on which the subject development took place is registered to it, and notwithstanding the provisions of section 34(13) of the Planning and Development Act 2000, as amended, the Board is not satisfied that the applicant has sufficient legal title to make the application for retention of the subject development and therefore, the Board, is precluded from granting permission in such instances.

In deciding not to accept the Inspector's recommendation to grant permission, the Board considered that, notwithstanding the statutory declaration provided by the applicant in respect of their possessory title for 18 years, the evidence provided by the appellant and Dublin City Council's Property Management section provides sufficient doubt as to the ability of the applicant to seek retention permission for a structure on lands that they do not appear to have clear title to. In such circumstances, and while it is acknowledged that the Board has no role in determining legal disputes between parties, the Board considered that it is not in a position to grant permission on the basis of the information provided with the application and appeal.



**Dave Walsh**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this 11<sup>th</sup> day of May 2022.**