



An
Bord
Pleanála

Board Direction
ABP-302528-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 24th. June, 2019.

The Board decided, as set out in the following Order, that:

WHEREAS a question has arisen as to whether or not modifications carried out to the design of a permitted “granny flat” development are or are not development or are or are not exempted development:

AND WHEREAS Mr. Paul Kelly requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 19th day of August, 2018 stating that the matter was development and was not exempted development:

AND WHEREAS Mr. Paul Kelly referred this declaration for review to An Bord Pleanála on the 10th day of September, 2018:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended,

- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) Permission was granted for the “granny flat” under Reg. Ref: 2026/11 (PL29N.238610) and Condition 1 of said permission states that the development shall be carried out and completed in accordance with the plans and particulars lodged with the application,
- (b) Under Article 9 (1)(a)(i) of the Planning and Development Regulations, 2001 (as amended), development to which Article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (c) The revisions from the permitted “granny flat” are works that were carried out during construction and before completion of the permitted development and in contravention of the plans and particulars lodged with planning application Reg. Ref: 2026/11 (PL29N.238610),
- (d) The “granny flat” has been constructed in contravention of Condition 1 of Reg. Ref: 2026/11 (PL29N.238610) and cannot therefore avail of the exempted development provisions of Article 6 of the Planning and Development Regulations, 2001 (as amended) and Section 4(1)(h) of the Planning and Development Act, 2000 (as amended):

THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the revisions to the permitted “granny flat” structure are development and are not exempted development.

Board Member:

Date: 24/06/2019

Terry Ó Niadh