

An  
Bord  
Pleanála

**Board Direction**  
**ABP-315835-23**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/03/2024.

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the alteration to roof finish of the new build element of the 'granny flat' is or is not development and/or is or is 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 20<sup>th</sup> day of January 2023, stating that the matter was development and was not exempted development:

**WHEREAS** Mr. Paul Kelly referred this declaration for review to An Bord Pleanála on the 16<sup>th</sup> day of February 2023:

**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:

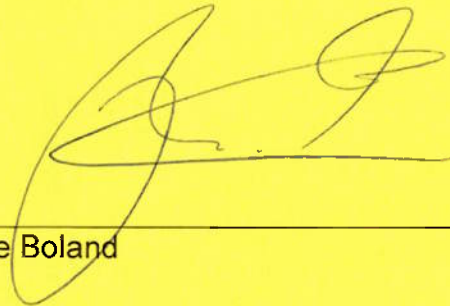
**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) Permission was granted for the “granny flat” under Reg. Ref: 2026/11 (ABP Ref: 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 alterations to the roof of 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 (ABP Ref: 238610),

(d) The “granny flat” has been constructed in contravention of Condition 1 of Reg. Ref: 2026/11 (ABP Ref: 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” roof are development and are not exempted development.

**Board Member:**

A handwritten signature in black ink, appearing to read 'Joe Boland', is written over a horizontal line. The signature is stylized and cursive.

Joe Boland

**Date:** 22/03/2024