



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 0280/18

WHEREAS a question has arisen as to whether revisions to approved granny flat as detailed: 1. Revised rooflight. 2. Revision to window in laneway elevation. 3. Revision to windows in garden elevation. 4. Revised external cladding to extension. 5. Revised extent of extension roof overlap and 6. Revision to drainage layout at 5 Royal Canal Terrace, Broadstone, Dublin (A Protected Structure) are or are not development or are or are not exempted development:

AND WHEREAS Paul Kelly of 5 Royal Canal Terrace, Broadstone, Dublin requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 15th day of August, 2018 stating that the matter is development and is not exempted development:

AND WHEREAS Paul Kelly referred the 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) sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (b) Articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the site, and
- (e) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) permission was granted for the “granny flat” under planning register reference number 2026/11, An Bord Pleanála appeal reference number PL 29N.238610 and condition number 1 of that 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, planning register reference number 2026/11, An Bord Pleanála appeal reference number PL 29N.238610, and
- (d) the “granny flat” has been constructed in contravention of condition number 1 of planning register reference number 2026/11, An Bord Pleanála appeal reference number PL 29N.238610 and cannot, therefore, avail of the exempted development provisions of Article 6 of the Planning and Development Regulations, 2001, as amended, or section 4(1)(h) of the Planning and Development Act, 2000, as amended:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that revisions to approved granny flat as detailed: 1. Revised rooflight. 2. Revision to window in laneway elevation. 3. Revision to windows in garden elevation. 4. Revised external cladding to extension. 5. Revised extent of extension roof overlap and 6. Revision to drainage layout at 5 Royal Canal Terrace, Broadstone, Dublin (A Protected Structure) are development and are not exempted development.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Terry Ó Niadh

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019.