



An  
Bord  
Pleanála

**Board Order**  
**ABP-315835-23**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 0412/22**

**WHEREAS** a question has arisen as to whether the alteration to roof finish of new build element of granny flat at 5 Royal Canal Terrace, Broadstone, Dublin (a protected structure) is or is not development or is or is not exempted development,

**AND WHEREAS** Paul Kelly of Paul Kelly Architects, 5 Royal Canal Terrace, Broadstone, Dublin requested a declaration on the said 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 is development and is not exempted development,

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

**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, as amended,
- (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, and
- (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 planning register reference number 2026/11 (An Bord Pleanála reference number 238610) and that condition number 1 of the 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 planning register reference number 2026/11 (An Bord Pleanála reference number 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 reference number 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,

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that the revisions to the permitted granny flat roof is development and is not exempted development.



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**Joe Boland**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this 3<sup>RD</sup> day of April 2024.