



An
Bord
Pleanála

Inspector's Report 307619-20

Development	Change of use from retail to residential, Alterations to property and addition of a first-floor pitched roof extension to and existing flat roof
Location	116 Capwell Road, Turners Cross Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	20/39180
Applicant(s)	Eoin Moriarty
Type of Application	Planning permission
Planning Authority Decision	Grant permission s.t. conditions
Type of Appeal	Third Party
Appellant(s)	1. Joan Carey, 115 Capwell Rd 2. Tom Murphy, 3 The Crescent
Observer(s)	None
Date of Site Inspection	10 th September 2020
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located on Capwell Road in Turners Cross, Cork City Centre. Capwell Road is a residential street which runs southwards from High Street (R610) to South Douglas Road and is parallel to the South Link Road (N27). The R610 splits into two streets (High Street and Southern Road) at the junction of High Street and Capwell Road. It is an established residential area with a mix of terraced and semi-detached houses and Colaiste Chriost Ri Secondary School is located mid-way along Capwell Road. The appeal site is located on the western side of the road, approx. 300m from the junction with High Street. The properties at the junction are generally in commercial use including a post office, a hairdresser's and a pizza take-away.
- 1.2.** The site area is given as 0.008ha. The floor area of the existing premises is given as 49.7sq.m. The property is a single-storey commercial premises with a flat roof. It was formerly a book shop but is now vacant. There is a terrace of three 2-storey residential properties (known as The Crescent) immediately to the south of High Street and these properties are set well back from the street, (relative to the pattern of development in the area). The appeal site is located immediately adjoining this terrace. Immediately to the south of the site is a row of 2-storey semi-detached houses which are closer to the street, with small front gardens. The appeal site is sandwiched between this row and The Crescent. The appellants' properties are immediately to the north (No. 3 The Crescent) and immediately to the south (No. 115 Capwell Road), respectively.
- 1.3.** There is a laneway to the rear of the property, (Tonyville Mews), which provides access to the rear of The Crescent, Nos. 114-116 Capwell Road and Nos. 1-6 Tonyville. The footprint of the building on the appeal site stretches from the front building line of the adjoining No. 115 Capwell Road to the rear boundary with Tonyville Mews. As such, the front building line is set back c.3.8m from Capwell Road but is c.7m forward of the front façade of No. 3 The Crescent.

2.0 Proposed Development

- 2.1.** It is proposed to change the use of the commercial unit into a single dwelling unit and to carry out alterations and extensions to the building. The proposed development involves the demolition of part of the ground floor at the rear to create a

back yard (17.1sq.m), which would bring the rear building line back to c.5-6m from the rear boundary. It is proposed to construct a first-floor extension with a pitched roof, but the rear building line of this extension would be in line with the rear wall of No. 115 Capwell Road, with the remainder of the rear section of the building being at ground floor level with a flat roof. The area of the proposed first-floor extension is given as 22.6 sq.m, and the ground floor of the proposed dwelling would be 34.5sq.m. Thus, the floor area of the proposed dwelling unit would be 57.1sq.m.

- 2.2.** The proposed dwelling unit would be one-bedroomed. It would be single fronted with a door and a window at ground floor level and one window at first floor level at the front. The rear elevation would have a patio door at ground floor level and a single window at first floor level. The walls would be plastered with a dash finish and the roof would be clad with slate. The ridge line is proposed to match that of No. 115 Capwell Road.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 9 conditions. These were generally of a standard type. Condition 9 required the payment of development contribution of €395.22.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report noted the submission from the appellants which related to overshadowing, loss of amenity, non-compliance with housing standards, site being too small for development, visual amenity, drainage issues, right-of-way and trespass. Reference was made to the residential zoning of the site and to the adjoining uses. Given the zoning and the fact that the site was located within an established residential area, the proposal was acceptable in principle. It was noted that the width of the site was c. 3 metres for its entire length, where the footprint currently covers the full extent of the site. Notwithstanding the narrow width, it was noted that the design and layout respected the adjoining development.

It was noted that the floor area and room sizes generally comply with the minimum standards for a single dwelling unit set out in the Ministerial Guidelines. The provision of 17sq.m of private open space was considered acceptable given the proximity to local amenities.

It was considered that the proposed development respects the scale and character of the existing dwellings on either side and would not give rise to injury to either residential amenity or visual impact on the streetscape. Given the proposed layout of the first-floor extension, it was not considered that it would result in overlooking or overshadowing of neighbouring properties.

3.2.2. Other Technical Reports

Roads Design – no objection subject to conditions.

Drainage – No objection subject to conditions.

Environment – No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water – no objection subject to conditions.

3.4. Third party observations

The observations from the appellants are generally similar to the grounds of appeal. Issues raised principally related to overdevelopment of the restricted and overly narrow site, unsuitability for residential use, overshadowing and loss of light and to the adverse impact that the proposed development would have on the character and appearance of the terrace and on the amenities of the adjoining residents. Concern was also raised regarding the lack of access or right-of-way over the private lane to the rear, to encroachment and to drainage issues.

4.0 Planning History

4.1. There is no planning history relating to the site.

4.2. TP03/27010 – No. 1 The Crescent - permission refused for the demolition of a garage and construction of a 2-storey extension for use as a separate dwelling.

5.0 Policy Context

5.1. Cork City Development Plan 2015-2021

5.1.1 The site is zoned ZO 4 Residential, Local Services and Institutional Uses the objective for which is “To protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies outlined in chapter 3”. Paragraph 15.10 states that the provision and protection of residential uses and residential amenity is a central objective of this zone.

5.1.2 Relevant policies contained in Chapter 16 include the following:

16.49 – Proposals for new residential developments

16.58 – Single units including corner and garden sites

16.59 – Infill Housing

16.64 - Private open space for residential development

Table 16.8 – Car parking standards

5.2. Natural Heritage Designations

Cork Harbour SPA (004030) and Great Island Channel SAC (001058) lie approx. 2.5km to 8km to the south east, respectively.

6.0 The Appeal

6.1. Grounds of Appeal

The 2 no. third-party appeals were submitted by agents acting for neighbouring residents to the north, at No. 3 The Crescent, and to the south at 115 Capwell Road, respectively. The main points raised may be summarised as follows:

- **Impact on residential amenity** - The proposed development will have a significantly adverse impact on the residential amenity of No. 3 The Crescent in respect of overshadowing and loss of daylight/sunlight to the front of the property. The appellant already experiences overshadowing from the 2-storey dwelling to the south (No. 115 Capwell Rd) and the proposed development

will exacerbate this impact as it will be set forward of the established front building line by 7m. It will impact the ground and first floor windows which are the only means of natural light to these rooms. No shadow analysis or daylight/sunlight report submitted.

- **Impact on visual amenity** – it will result in a building which is inappropriate by reason of its scale and design and will be squeezed into a very narrow plot. Although the height and design are similar to adjoining development, the proportions are inconsistent with established development and will result in incongruous development in the street scene. The proposal is wholly out of context with the established pattern of development in the area. Increasing the height to 2 storeys results in an overbearing structure. The proposal will turn the semi-detached house to the south into a mid-terrace townhouse. Does not comply with 16.49 – new residential development in the City Development Plan.
- **Sub-standard form of residential accommodation** - the proposed development does not meet the minimum requirements for unit sizes or room dimensions for bedrooms and living rooms, as set out in both the Cork City Development Plan (2015) and in the Quality Housing for Sustainable Communities Guidelines (DOELG 2007), and as such, would result in sub-standard residential accommodation. The minimum floor area for a 2-storey dwelling is 70m², not 44m² as referenced by the Planner. The private open space in this proposal (17.1m²) fails to meet the CDP standards in Table 16.7 (48-60m² for a terraced townhouse). This would result in a significant under-provision of private amenity space and would contravene the CDP standards. Reference is made to a precedent whereby permission was refused by the P.A. on similar grounds (19/38736).
- **Encroachment onto appellant's property** – the submitted floor plans indicate that the proposed dwelling would encroach on the lands in the ownership of No. 3 The Crescent, and this is also inconsistent with the submitted red-line boundary plan. No allowance has been made for the construction of an independent wall to provide separate structural support to the gable walls of the adjoining houses. The design, as proposed, will

interfere with the structural integrity and weather-tightness of the gable walls and with the external gas and drainage service pipework.

- **Constructability of proposed development** – It is unclear how the structure will be built and how noise/dust mitigation will be managed during construction. The road serving The Crescent is a private road and the appellants do not consent to this road being used for construction traffic. Tonyville Mews is equally unsuitable for construction traffic. An Outline CEMP should have been submitted with the application. The proposed pitched roof abuts the gable walls of each of the appellants' properties, which is a cause of concern in respect of water ingress.
- **Drainage** – The proposed development does not include any drainage proposals.

6.2. Planning Authority Response

The P.A. responded to the grounds of appeal on the 13th August 2020. It was stated that it has no further comments to make.

6.3. First party response to grounds of appeal

The first party has not responded to the grounds of appeal.

7.0 Assessment

It is considered that the main issues arising from the appeal are as follows: -

- Principle of development
- Impact on residential amenity
- Standard of residential accommodation
- Impact on visual amenity
- Construction impacts

7.1. Principle of development

- 7.1.1.** The site consists of a vacant commercial shop unit which is located within an established residential area. The policies set out in the Cork City Development Plan 2015 at 16.49 state that proposals for new residential development should take into account, inter alia, the accessibility of a site in terms of proximity to public transport, neighbourhood facilities and amenities and in terms of access by various means of transport. This policy is in accordance with national policy to increase the density of residential development in areas which are serviced, well served by amenities and public transport and in close proximity to facilities. The site is located in such an area which is in close proximity to, and within walking distance of, the city centre and to local neighbourhood amenities such as a post office and schools.
- 7.1.2.** The proposed development is considered to fall within the category of “infill housing” as described at 16.59 of the Cork City Development Plan. The policy for such developments seeks to make the most sustainable use of urban land and infill development will be considered on a case-by-case basis, taking into account the impact on adjacent houses, traffic safety etc. It is further stated that the P.A. may relax standards in certain circumstances in the interests of developing vacant, derelict and underutilised land. Infill housing will be required to
- Not detract from the built character of the area.
 - Not adversely affect the neighbouring residential amenities.
 - Respect the existing building line, heights, materials and roof profile of surrounding buildings.
 - Has an appropriate plot ratio and density for the site.
 - Adequate amenity is proposed for the development.
- 7.1.3.** The proposed development relates to a vacant site which is integral to the fabric of the established residential area. The plot ratio would be 0.7 and the density is generally in accordance with the prevailing density in the area. It is therefore considered that the proposed development is appropriate in principle subject to compliance with normal development standards for new residential development as set out in 16.59 and outlined above. These matters will be considered in the following paragraphs.

7.2. Residential Amenity

- 7.2.1.** The concerns raised by the appellants related principally to loss of daylight and sunlight to rooms at the front of No. 3 The Crescent, High Street and to the front garden of that property. As noted by the appellant, a sunlight/daylight analysis or shadow study has not been submitted. However, Drawing No. 4 – Proposed Site Plan – includes a North Point with indicators regarding the time of day and angle of the sun in Winter.
- 7.2.2.** The existing premises, which is a vacant commercial unit, comprises a long narrow single-storey, flat-roofed building which is sandwiched between two 2-storey dwelling houses. There is a 7-metre difference between the established front building lines of these existing dwellings, on either side of the appeal property, the front building line of which matches that of the house to the south (No. 115 Capwell Rd). The proposed development would result in a change of use to a residential property and the introduction of a second storey with a pitched roof. The design and layout of the proposal indicates that the pitched roof would also be in line with No. 115 Capwell Road and that the rear half of the site would comprise a single-storey flat roof and a newly formed rear yard.
- 7.2.3.** I would agree that the proposed 2-storey element would be likely to give rise to some degree of overshadowing to No. 3 The Crescent, which is set back 7m from the front and faces east. No. 115 Capwell Road already overshadows the front garden area and front windows of this property and the closer proximity of the two-storey structure would be likely to increase the duration or the length of shadow in the morning. The front of this dwelling opens onto a private lane off High Street, which runs parallel to Capwell Road and is separated from Capwell Road by means of a high masonry wall. There is a further masonry wall with a steel fence on top defining the boundary between the appeal site and the end of the lane (in front of the house). The front garden area of No. 3 is laid out in concrete and is not enclosed, is not landscaped and would appear to be used for parking. It does not appear to be used as an amenity area. It is considered that the increased loss of daylight/sunlight to the front of the house, and the consequent impact on residential amenity, would not be unduly significant.

7.2.4. The rear of No. 3 has an enclosed west-facing private rear yard, which is currently bounded on its southern side by the flat-roof building on the appeal site. The proposed development would result in the removal of this flat roof, which would significantly improve the amenity of the rear garden, which appears to be used as private amenity space. The 2-storey element is too far to the east to cause any shadow on the rear garden. Thus the proposed layout at the rear, together with the change of use to residential, would give rise to positive impacts on the residential amenity of the property to the north and the impact on the front area would not be significant.

7.3. Standard of residential accommodation

7.3.1. The proposed development is for a one-bedroomed dwelling unit with a stated total floor area of 57.1sq.m. The floor area of the proposed bedroom is given as 11m², the aggregate living area as 23.1m² and the storage area as 2.2m². The appropriate standards are set out in Quality Housing for Sustainable Communities Guidelines (DOEHLG 2007) at 5.3.2 and Table 5.1. I note that the target floor area for a one-bedroom 2-person house is 44m², but that this relates to a single-storey house. However, there is no corresponding target floor area for a 2-storey one-bedroom house. Given that the floor area for the proposed dwelling is 57.1m², it is considered that this is appropriate.

7.3.2. In terms of individual room sizes, the proposed development meets the targets (relating to a single-storey 1-bed unit) for aggregate living area (23m²), aggregate bedroom area (11m²), and storage area (2m²). I note that the standards specify a minimum floor area of 7.1m² for a single bedroom and 11.4m² for a double bedroom. As the bedroom is stated to be 11m², this is acceptable. Minimum widths are also given for bedrooms (2.8m for double and 2.1m for single) and for living rooms (3.3m). The width of the bedroom and of the combined living/dining room is indicated as 2.7m. The appellant (No.3 The Crescent) has pointed out that the wall on the northern side of the development appears to encroach onto the front garden area of his property. It is not clear what the legal or land ownership situation is in this regard, but if it were found to be necessary to move this wall further to the south, it would reduce the width of the accommodation by c.300mm. This would mean that the bedroom would be classified as a single bedroom. Although the width of the living

room would be c.2.4m, it is a relatively large room (23m²) and is 8.5m in length with a patio door leading to a west-facing private amenity space. In these circumstances, it is considered that the layout and room sizes are adequate for a one-bedroomed dwelling and generally meet the standards of accommodation set out in the Guidelines.

- 7.3.3.** Table 16.7 sets out the recommended areas for private amenity space for new residential development. The standard for a terraced house is 30m² in the City Centre, Docklands and Inner Urban Areas, and 48-60m² for suburban areas. It is considered that the proposed development relates to an Inner Urban Area, as it is within walking distance (15 minutes) from the City Centre. The proposed amenity area is 17.1m², which is approx. 56% of the minimum requirement. However, it is stated at 16.64 of the CDP that a reduction in private open space standards may be considered to facilitate the development of small infill sites in City Centre and Inner Urban Areas.
- 7.3.4.** It is considered that the site of the proposed development is one which is identified in the Quality Housing for Sustainable Communities Guidelines as being appropriate for redevelopment for residential purposes. The guidelines encourage use of vacant and derelict buildings or poorly utilised sites for conversion to residential use (1.3). It is stated that such development helps to restore, strengthen and upgrade the social and physical fabric of an area and to eliminate derelict and under-utilised areas, particularly where such development maximises the use of existing infrastructure (1.4). The site is located in an established residential area with a wide range of services and facilities to support such development within the neighbourhood. Thus, the reduction in private open space standards is considered appropriate in this instance. The proposed rear yard would be west facing, have a depth of c.6m and would be fully enclosed. As such it would provide a reasonable amount and quality of private open space to serve the development.

7.4. Impact on visual amenity

- 7.4.1.** The appellants have raised concerns about the scale and design of the proposed development and that it would be out of character with the pattern of existing development.

- 7.4.2.** The site is effectively situated between two terraces. Although Nos. 114-115 Capwell Road are semi-detached houses, the dwellings to the south of them are terraced and there is a single-storey extension linking No. 114 to No. 113. The building line of the houses fronting Capwell Road (Nos. 108-115) and the appeal site is consistent at 3.38m. The building line of The Crescent is established at 7m and is physically separated from the Capwell Road properties by a masonry wall. The proposed development follows the established building line for Capwell Road, which is considered to be appropriate in this context. The front elevation is designed to accord with the design and appearance of the existing houses to the south in terms of the external treatment, use of materials and size/shape of window openings. The proposed roof, in terms of its profile and cladding, is also designed to match that of No. 115 Capwell Road. The rear elevation is similarly designed to reflect the design and appearance of the properties facing Tonyville Mews.
- 7.4.3.** The existing development on the site does not have any boundary enclosure to the front. This is inconsistent with the established pattern of development on the street. It is considered, therefore, that should the Board be minded to grant permission, the developer should be required to provide a low plinth wall with a railing and pedestrian entrance, similar to the boundary treatment prevailing in the area.
- 7.4.4.** It is considered that the proposed dwelling respects the character and style of the established residential development in the vicinity. The proposed infill development, therefore, by reason of its layout, scale and design, would not detract from the character of the streetscape and would not injure the visual amenities of the area.

7.5. Construction impacts

- 7.5.1.** The appellants have raised concerns about the proposal to construct a party wall which appears to encroach onto the front garden of No. 3 The Crescent and the failure to construct an independent wall to provide separate structural support to the gable walls of the adjoining houses. It would appear from the proposed floor plans (Drawing No. 5) that in order to maximise the width of the internal accommodation, the front section of the party wall on the northern side may encroach onto the adjoining lands. However, the red line boundary on Drawing No. 4 does not indicate this, and there does not appear to be any encroachment. This seems to be an anomaly. As discussed under 7.3 above, it is likely that the internal layout could be

altered without losing functionality, if this is deemed necessary. I also note from the pre-application meeting notes that the structure on the appeal site, which is largely to be retained and extended, previously formed part of No. 115 Capwell Road. Thus, it would appear that the proposed development could be constructed as designed, subject to appropriate structural measures being put in place.

- 7.5.2.** Notwithstanding the issues outlined above, however, the onus is on the developer to ensure that adequate access to and title is available to carry out the development. Section 34(13) of the Planning and Development Act 2000 (as amended) states that “A person shall not be entitled solely by reason of a permission under this section to carry out any development.” These matters, along with issues such as weather-tightness and relocation of services/plant, will need to be resolved between the parties and are outside the remit of the Board.
- 7.5.3.** The appellants have raised concerns regarding access to site for construction traffic and the absence of any information on how noise and dust will be mitigated during construction. I would agree that these matters need to be addressed as access to the site is problematic and the narrow width of the site and close proximity to the adjoining houses would require sensitive and careful management of the construction phase.
- 7.5.4.** The P.A. decision included two conditions (3 and 4) which sought to address matters such as noise, hours of construction and environmental impacts (including dust, noise, odour, litter and dirt on public roads) during the construction phase. It is considered that should the Board be minded to grant permission, a condition restricting hours of operation during construction should be attached, together with a requirement to submit a Construction Management Plan, given the restricted nature of the site and its proximity to existing houses. This CMP should address matters such as access during construction, parking for construction workers, measures to control noise, dust and dirt, and a method statement regarding the measures to maintain the structural stability of adjoining gable walls and the prevention of water ingress to adjoining properties.

7.6. Drainage

- 7.6.1.** The application does not address matters such as surface water or storm water drainage. I note that the Drainage division of the P.A. has raised no objection to the proposed development subject to 4 conditions which of a standard nature. It is considered that given the built-up and serviced nature of the area, the proposed development would not give rise to any significant issues provided that it is required to comply with the P.A. standards. This can be addressed by means of a condition of any permission.

7.7. Environmental Impact Assessment

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.8. Appropriate Assessment

Great Island Channel SAC (001058) and Cork Harbour SPA (004030) lie approx. 8km and 2.5km respectively to the east/southeast. There are no known hydrological links to the protected sites. Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

- 8.1** It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1.** Having regard to the policies and objectives as set out in the Cork City Development Plan 2015-2021, to the scale and nature of the proposed development and to the nature and character of the surrounding environment, it is considered that subject to

compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) A plinth wall with a railing and pedestrian gate to match the adjoining property to the south shall be provided along the front boundary with Capwell Road. The wall shall be suitably capped and finished in a material that matches the finish of the dwelling.
 - (b) The first-floor bathroom window on the front elevation shall be glazed with obscure glass.

Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of the development.

Reason: In the interests of visual and residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Site development and building works shall be carried out only between the hours of 0800 and 1900 Monday to Friday inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and Public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of properties in the vicinity.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including

- Details of appropriate mitigation measures for noise, dust, vibration and monitoring of such levels
- Measures for off-site disposal of construction/demolition waste
- Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains
- a method statement setting out measures to maintain the structural stability of adjoining gable walls and to prevent water ingress to adjoining properties
- access arrangements for construction vehicles
- parking for construction staff

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority

Reason: In the interests of amenities, public health and safety.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Mary Kennelly
Senior Planning Inspector

8th October 2020