Cllr. Marcia D'Alton

Mobile: 085-7333852 • Email: info@marciadalton.net
Website: www.marciadalton.net
Facebook: www.facebook.com/cllrmarciadalton • Twitter: @marciadalton

22 Hillcrest,
Pembroke Wood,
Passage West,
Co. Cork.

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

14-05-2018

RE: Cork County Council Planning Ref. No. 17/5739
Rowan View Developments, Pembroke Wood, Passage West, Co. Cork.
Planning application to construct 24 No. apartments over 3 floors and all associated development works including access, car parking, landscaping and amenity areas, bicycle storage and service/refuse storage facilities

---

Dear Sir/Madam,

On my own behalf and on behalf of extremely concerned residents of Pembroke Wood who have expressed their views to me, I wish to lodge an appeal with An Bord Pleanála against Cork County Council's decision to grant permission to Rowan View Developments for the above development on a long-established green space in the middle of Pembroke Wood.

I am a resident of Pembroke Wood, secretary of the Pembroke Wood Residents Association and a public representative in the Ballincollig-Carrigaline Municipal District. It had been the intention of the Pembroke Wood Residents Association to take this appeal but, in collating the necessary documentation, the committee found that their attempted lodging of a submission to Cork County Council in relation to the proposed development through the County Council's online system had been unsuccessful. The Pembroke Wood Residents Association will in due course be voicing the concerns of the residents as expressed to them at a recent EGM to the Board in an observation on my appeal.

The site in question has been aptly and accurately described in the past by one of the Board's planning inspectors (ABP ref. PL04.130785) as being "*in the centre of a housing estate*" with estate roads surrounding the site on three sides, "*occupied dwellings to the west and south*" and an open space area to the north. At the time of writing, the duplex units on the eastern site were under construction. That was 17 years ago and they have long since been completed and occupied.

I acknowledge that in the original plans for Pembroke Wood, this green space was identified for a commercial development. I also acknowledged that Cork County Council's grant of permission was for construction of 18 of the 24 apartments initially proposed in the current planning application.

A brief summation of the history of development at the proposed location is as follows:

97/4695: Histron Ltd. applied for planning permission to construct a development of 445 residential units. Conditional permission was granted by Cork County Council for 417 units. In the planning application, the site in question was indicated as being reserved for commercial development. Cork County Council conditioned it to remain as public open space until provision of the intended commercial development.

01/3327 (PL04.126423): Histron Ltd. applied for planning permission for development of 54 apartments in three permitted duplex/apartment blocks at Pembroke Avenue, Pembroke Wood. Permission was refused by Cork County Council. Permission was also refused by the Board.

01/6933 (PL04.130785): Histron Ltd. applied for planning permission to construct a crèche, 3 No. commercial/retain units including a foodstore and medical/beauty therapy centre, offices, public house and restaurant in a two-storey building on the site of the currently proposed development. During the course of the planning application, HIstron revised their plans, omitting the pub, restaurant and northern access. Cork County Council granted planning permission, albeit at a scale significantly reduced over that proposed. An Bord Pleanála upheld Cork County Council's decision.

05/2237: Histron Ltd. applied for permission to use the entire building on the southern side of the site as a crèche. Permission was granted by Cork County Council.

08/9094 (PL04.233744): Paul Hanlon applied for planning permission for a mixed use neighbourhood centre development on the site of the currently proposed development. The proposed mixed use neighbourhood centre was to include a café and office/medical floor space on the ground floor and 18 No. apartments over three floors above. Cork County Council granted planning permission for a reduced scale development comprising the proposed commercial uses and 12 No. apartments over two floors above. An Bord Pleanála upheld Cork County Council's decision.

11/4532: Histron Ltd. applied for planning permission to not provide the committed recreational areas at Pembroke Crescent for which permission had been granted under 97/4695 and to provide additional car parking at Pembroke Crescent to serve The Avenue apartments. The application was deemed invalid because the site notice was not adequately displayed.

14/6127: Paul Hanlon was granted planning permission for an extension of duration of 08/9094.

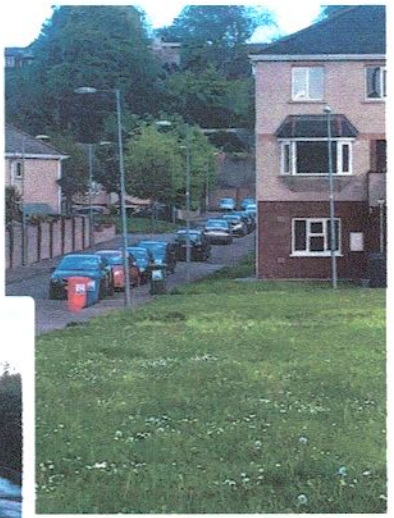
The grounds of appeal against Cork County Council's decision to grant permission for the current planning application are as follows:

1. Inadequate provision of parking causing danger to existing residents
2. Overdevelopment of a restricted site within an established estate
3. Inadequate usable green space/recreational areas for both residents of the existing estate and of the proposed development
4. Incompatibility with the original design aims for Pembroke Wood
5. Consequences for existing residents of Pembroke Wood arising from the applicant's failure to prove ownership of the site.

1. Grossly inadequate parking causing danger to existing residents

There are 96 apartments in Pembroke Wood, half of which are 2-bedroom and the other half of which are 3-bedroom. Parking for the residents of these apartments was intended to be in the internal courtyard to the rear. Although the spaces are unlined, approximately 94 parking spaces have been provided. Minimum parking standards required by the current Cork County Development Plan are 1.25 per apartment. Parking provided to the existing Pembroke Wood apartments is well below that minimum.

The theoretical deficiency in parking allocation is exacerbated by the reality. Most of the existing apartments are rented. So we are not talking about a family situation with one or possibly two cars. In fact, many of the 3-bedroom apartments are let to three individuals, each of whom owns a car. Because many residents work during the day and return only in the evening when the creche is closed, they rely on at least some of the 19 creche spaces to fulfil their parking needs. But there is significant parallel parking along Pembroke Grove and Pembroke Crescent that road widths in the estate were never designed for. Photos below show parking last Saturday afternoon along estate roads in the vicinity of the proposed site and in the car park in front of the existing apartments.



In the past, anti-social behaviour has been a significant deterrent to parking in the apartment courtyard. Although this is less of an issue in more recent times, parallel parking is particularly bad along Pembroke Crescent where, because there are no walkways from the front of their apartments to the courtyard to the rear, residents of The Avenue have no physical access to their cars without walking a considerable distance. This is clearly wholly impractical with children, shopping, heavy loads or in the rain. Consequently, many residents of The Avenue parallel park on either side the road in front of their apartments, narrowing its width to the extent that a fire engine would be unable to go up Pembroke Crescent. Residents of Pembroke Grove are hugely concerned about similarly restrictive access to emergency vehicles arising from parallel parking (see photo below illustrating parallel parking on Pembroke Crescent).

Intensive parallel parking of this nature is hugely dangerous for children. When they are playing on the greens in the estate, they often run out between parked cars after a ball. They are unable to see cars coming and any approaching driver is equally totally blind to them. It is a lethal situation created wholly by inadequate provision of parking.

Recognising the dangers for residents at this location, Histron Ltd. had applied for planning permission to remove a strip of the green space at Pembroke Crescent to provide set back parallel parking for residents of The Avenue apartments (CCC ref. 11/4532). The planning application was deemed invalid. Merely a couple of weeks later, Histron Ltd. went into receivership and the planning application was never relodged.

In this current planning application, 30 parking spaces are proposed for 18 apartments. Of those 18, 14 apartments would have 2 bedrooms and another 4 would have one double bedroom. In a town such as Passage West which is woefully badly served by public transport, it is most reasonable to anticipate that between them, residents of these units would have approximately 36 cars, exclusive of visitor parking needs.

So the reality of what has been granted planning permission by Cork County Council is a total of 114 apartments (96 existing + 18 proposed) with 124 parking spaces (94 unlined existing + 30 proposed) which is a parking provision of merely 1 space/unit. That is less than the minimum standards specified in the Cork County Development Plan 2014. Its inadequacy is exacerbated significantly by the particular circumstances in Passage West where public transport is infrequent and unreliable. It is multiplied several-fold by the multi-car occupancy of tenanted apartments.

The consequences of this would be untenable for all residents and for the adjacent crèche. It would with absolute certainty result in cars parallel parking along Pembroke Park Drive and along the road to Pembroke Grove/Ashmore to the north of the proposed development. Visually, the impact on Pembroke Wood would be highly detrimental. But with the speed of cars on the straight stretch of Pembroke Park Drive adjacent to green areas where children play, the resulting danger would be truly lethal. Several accidents have already occurred along Pembroke Park Drive. A child has been knocked down at the junction between Pembroke Park Drive – Pembroke Meadows - Pembroke Grove/Ashmore. It was extremely fortunate the consequences of these collisions were not fatal. But what has been permitted by Cork County Council in this planning application would likely result in appalling danger to all residents and in particular to children in Pembroke Wood.

2. Gross overdevelopment of the restricted site within an established estate

Pembroke Wood is within the designated Passage West town boundary and as such is not specifically zoned in the Ballincollig-Carrigaline Local Area Plan. This is the approach Cork County Council generally takes to development in built-up areas. However some guidance of what might be appropriate is given in HOU 4-1 of the Cork County Development Plan. It advises a density of 20 – 50 units/ha for towns such as Passage West with a population of over 5000. The 18 apartments proposed for this 0.29 hectare site would represent a housing density of 62 units/hectare. This is very much greater than recommended by this specific aim of the Cork County Development Plan.

I wish to draw the Board's attention to Paragraph 3.4.8 of the County Development Plan in particular which states that:

"The main locations where higher densities could be considered on public transport grounds are those parts of the Cork South Environs where bus services achieve a 15 minute frequency in peak hours. However it is considered that in many other locations, the frequency of [bus] services, particularly during peak hours, is currently below the level appropriate to the general application of higher densities."

Passage West is serviced by a single decker bus approximately once per hour. The reliability of even that hourly service has been notoriously and frustratingly poor over the past six months. Often several buses in succession have not turned up as expected. Therefore Passage West is certainly not a town where a higher

density such as this proposed for Pembroke Wood could be justified on the basis of a comprehensive bus service.

In fact in considering the 2008 planning application, Cork County Council noted that a residential density of 18 apartments over the proposed commercial ground floor was "*excessive at this location*". Consequently, permission was granted for a three-storey development with 12 apartments. In considering this current planning application, the Cork County Council planner again indicated a preference for 12 apartments rather than the 24 as submitted. The developer returned with a proposal for 18. Yet 18 was considered an excessive density in 2008.

The types of density recommended by the Cork County Development Plan 2014 for towns such as Passage West is echoed by the most recent issue of the *Design Standards for New Apartments* (2018). Passage West best meets the "*peripheral and/or less accessible urban location*" category which is regarded as generally suitable for net densities of <45 units/hectare.

The overdevelopment proposed at this location would impact severely on the well-being, safety and environment of residents within the existing estate:

- ***Loss of light to existing residents***

A 3-storey building in this location would be immensely overbearing along the main spine road of the estate. The ground floor apartments which would be most affected by the proximity to the 3-storey block get direct sunlight to the front only in the afternoon. Doodlebugs is north-facing. Loss of light arising from the proximity and orientation of the 3-storey building would directly impact on the wellbeing of existing residents and children in these adjacent buildings. The link between natural light and mental health is by now well proven (for example, Boubekri et al. (2014) in the *Journal of Clinical Sleep Medicine* Vol. 10, No. 6). This is one of the reasons the latest version of the *Design Standards for New Apartments* recognises that "*the provision of reasonable levels of natural light in new apartment developments is an important planning consideration as it contributes to the liveability and amenity enjoyed by residents*".

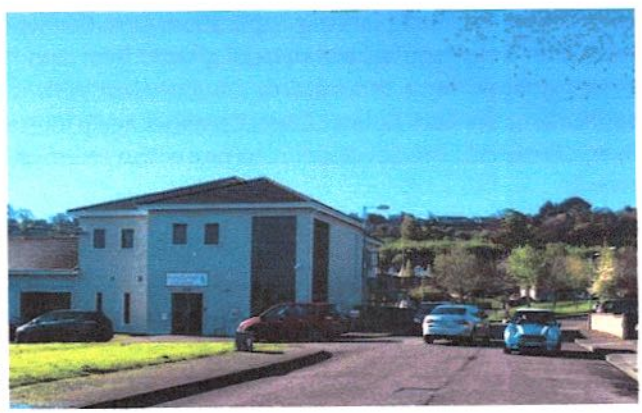
The *Design Standards* are sadly less cognisant of the disamenity created when residents of existing apartments have their natural light taken from them. Paragraph 3.19 does however specifically advise protection of units where windows are located on lower floors that may be overshadowed by adjoining buildings. This is the case for the existing ground floor apartments in Pembroke Wood closest to the proposed development.

These existing ground floor apartments have no area of private open space. Views to the rear from both these apartments and the duplexes above is of the parking courtyard. Views to the front are currently open; should the green space be built on, views to the front will instead be those of a 3-storey building. This, combined with the feared loss of light, would represent an intolerable loss of amenity for residents of the existing apartments and in particular, those in ground floor units. Residents of these units have expressed their deep concern to me about consequent impact on the resale value of their residential investment and on their own well-being. Loss of light is potentially tolerable when it is substituted for by provision of a high quality green area for recreation. But in this instance, when loss of light would result from the loss of the only proximate green area, it would be entirely unacceptabe.

- ***Traffic hazard on estate roads and at estate junctions***

The overdevelopment would also create a significant traffic hazard in the vicinity of the proposed apartments and the existing crèche. At present at the 9am drop off and the 12 noon pick-up, cars collect along Pembroke Park Drive, in front of the crèche and anywhere a parking space may be available. The interaction between this parental traffic and residents travelling on the main spine road of the estate can often be precarious. There is a genuine fear that if a potential 36 additional cars were to favour this entrance, particularly if a portion of those were to be leaving for work at the busy 9am crèche drop-off time, the

resulting traffic would present a major safety risk to children, their parents and all passing residents. Risks are exacerbated by the entrance to the crèche being located on a blind bend (see photos below).



This concern is not alleviated by future residents of the proposed 18 apartments favouring use of the proposed northern entrance onto the Pembroke Grove/Ashmore road. As mentioned above, the junction of this road with the main spine road of the estate is particularly hazardous and it is here than most of the incidents in the estate have occurred. It is also a concern that traffic would be augmented along this road as it is immediately beside the main green area in the estate.

Speeding on the long straight stretch of Pembroke Park Drive between the crèche and the roundabout on the R610 has long been a problem. I in fact respectfully refer the Board to the current Google Earth image for Pembroke Wood which shows a group of young adults treating the footpath and main spine road of the estate as a single integrated space. The risks are of course far higher for young children whose movements are less predictable. The residents have removed overgrowth from the bank running parallel to the main green along the main spine road to give drivers greater visibility should a child decide to run across the road. This work has helped significantly to improve safety but it most certainly has not eliminated the risk. The proposed apartments would increase traffic in the estate. If, as predicted, they would also increase regular residential parking on the estate roads, that danger would be multiplied.

Many of the residents of Pembroke Wood have long desired the installation of ramps on this long straight stretch of Pembroke Park Drive. In granting permission for the most recent commercial development at the subject location (CCC ref. 08/9094), Cork County Council conditioned the developer to contribute monetarily to the construction of three such ramps. That condition was not repeated in the permission granted for the current apartment development. Although we acknowledge the difficulty in installing these ramps in the absence of the estate's being taken in charge, it is very important that the intention to provide them is reflected in any grant of permission to any development on the green space adjacent to the crèche. It was also clearly acknowledged by the Cork County Council planners in granting permission for 08/9094 that as road and public safety issues had not been incorporated into the design, it would be appropriate to address this deficit by way of condition.

- ***Integration of the proposed development within the established estate***

The proposed apartment block would be the first building one meets when entering Pembroke Wood. The site is accessible and visible on all sides. It is in fact probably the most visible area in the entire estate. Yet nothing about the design of the proposed apartment block is noteworthy. The proposed structure is blocky and solid. Several of the proposed finishes differ from those in the existing estate. The proposed butterfly roof shape is out of place. In her further information request, the Cork County Council planner asked that the height of the building would be reduced to 9m. It was not. The photomontages included with the

planning application illustrate a backdrop of green fields and mountains, in no way helping to the viewer to understand how what is proposed might integrate into the existing estate.

As is generally appropriate for apartments, each of those proposed is designed with a balcony. But less appropriately for a building that is so visible along the main estate road, the proposed balcony finishes are glass. Internal storage provision within the units is low and it is inevitable that bulky items and clothes drying would feature on at least some of the proposed balconies. This would detract significantly from the entrance to the Pembroke Wood estate.

Over the course of evaluation of the planning application, the bin store associated with the proposed apartment block has moved from outside the apartment building to inside the building and back out again. The reason is that there is actually no appropriate place to locate this bin store. Bins are a feature of daily life one generally attempts to hide. But in the location required by Cork County Council, it would be impossible to shield the passerby from what Paragraph 4.9 of the *Design Standards for Apartments* (2018) says "*should not be on the public street*". The proposed bin store would in fact be the very first structure to greet one entering the estate. It is notable that the conditions attached to Cork County Council's grant of planning did not require the developer to provide capacity for washing down this external bin storage compound.

There are already 96 apartments in Pembroke Wood. Apartments are a type of residential accommodation which the residents of Pembroke Wood understand. Of necessity, many residents of the existing apartments in Pembroke Wood use their balconies for clothes drying and storage. But those balconies are at the rear. When a skip is hired, they place it in the courtyard at the back. It is not evident from the main estate road. But in the case of the proposed development, it is virtually impossible to place an apartment block on an island-like site with the rear facing outward toward the public road whilst successfully shielding the detritus of everyday living such that its presentation is always reasonably neat and attractive.

3. Inadequate usable green and recreational space for existing residents and residents of the proposed development

The green area in front of the crèche provides valuable recreational space in a in the busy Pembroke Wood estate. Old Pembroke Wood was built in 1973, while Maple Rise was constructed in 1974. Planning permission for the remaining 417 houses was granted in 1997 (97/4695). Residents of Pembroke Wood now essentially live in a 469-unit development off the roundabout on the R610. The total area of this development is approximately 224,817 sq.m*.

Cork County Council's *Recreational and Amenity Policy* (2006) requires usable open space in a residential development to be 12 – 18% of the site area. There are a number of green areas in Pembroke Wood. Those usable for play are listed on the table overleaf. Including the green space in front of the crèche, they total approximately 13.4% of the total estate area. This is at the lower end of the usable open space required by Cork County Council. Without the green space in front of the crèche, only 12.1% of the total Pembroke Wood estate is usable open space. The area of highest density around the existing and proposed apartments would be directly served by no green space at all.

The newer part of Pembroke Wood was built on a marsh. The large green at Pembroke Crescent is in fact the relic of a reservoir infilled with construction waste. Prior to development, it discharged to the sea by a stream which ran through what is now the main green. Although the stream was to have been piped as part of the 1997 development, much of the main green ponds severely and is unpassable in wet weather. The lower part of the big green at Pembroke Crescent was to have been drained as part of the 1997 development but it too is unusable in wet weather. And if the Board's Inspector were to visit Pembroke Wood this week, s/he would see that the grass in the green at the Beeches is also unusually long because it is so wet that at present it cannot take the weight of a ride-on mower. Even at this time of year, these areas cannot be considered as usable green space after prolonged wet weather. So the percentage of usable open space is approximately 7% of the entire site area. Without the green space beside the crèche, it is reduced to 5.7%. That is far below the standards required by Cork County Council's *Recreational and Amenity Policy*.

Green spaces played on by children in Pembroke Wood	Area (sq.m)*	Area (sq.m)*
	Dry weather	Wet weather
Main green	6,802	1,120
Doodlebugs crèche	2,900	2,900
Pembroke Crescent	11,947	4,636
The Brambles	2,431	2,431
The Beeches	1,522	0
Deerpark	1,467	1,467
Maple Wood	1,063	1,063
Pembroke Meadows	421	421
Pembroke Row	832	832
Pembroke Grove	374	374
Old Pembroke Wood	485	485
Total	**30,244**	**15,749**

* With the exception of the green space at the crèche, all area estimations have been made as accurately as possible from Google Earth. These are the gross areas of the green spaces that are played on by children. The usable area of these green spaces is less than this.

Actually, although almost all the green spaces in the newer part of the estate become mucky and unpleasant after heavy rain, the only part of the estate that remains reasonably dry and usable is the green in front of the crèche. It is prime play area and the only green space sufficiently close to the existing apartments where young apartment residents can play safely without having to cross estate roads.

During the summer, this green is the most popular area for ball play. There is in fact no other area in the estate adequately flat for good ball play. As part of 97/4695, the developer was to provide 3 fully equipped children's play areas, 2 courts and 1 playing field/soccer pitch on the green space at Pembroke Crescent. But the these recreational facilities were never installed. The hill behind the estate was to have been cultivated into a wooded area through which a recreational trail was to have been designed. In accordance with the Council's Recreation and Amenity Policy, the 417 units in the 1997 planning permission should have been provided with 70 points-worth of recreational facilities. Commitments in the planning application were for 65 points-worth plus the recreational trail. Nothing at all has been provided. The Cork County Council planner also noted that the proposed apartment development has, in its own right, a deficit of usable open space.

I respectfully ask the Board to consider that it cannot possibly be considered proper and sustainable development to permit construction of a high density residential development on a usable green space when there is a marked deficit of both usable green space and recreational facilities for residents of the existing estate.

4. Incompatibility with the original design aims for Pembroke Wood

When the planning application was lodged for what was ultimately 417 new units in Pembroke Wood in 1997 (CCC ref. 97/4695), the site for which this apartment block is proposed was intended to accommodate a small commercial development to serve the needs of the estate. Drawings submitted with the planning

application indicated that the layout of this commercial development would retain reasonable open space on the site so as to provide residential amenity.

Condition 3 attached to the subsequent grant of planning required that:

"Following completion of the duplex/apartments the area shown reserved for a commercial shop/site shall be set out as public open space. The site shall be maintained as public open space until the commencement of construction of the commercial buildings."

At that time, Cork County Council appeared to have a reassuringly solid vision for the estate based on the intentions outlined in the original planning application. When Histron applied for permission to change 3 blocks at Pembroke Avenue from a combination of duplexes and apartments to 54 apartments, Cork County Council refused on the grounds that this would conflict with the layout approved under the parent planning permission for the estate. The Council was clear that this parent planning permission regulated the development of the overall estate.

This site has always been intended to serve the needs of the estate. The first planning application for retail and office development on the site was lodged in 2001 (CCC ref. 01/6933). Cork County Council deemed it too large. Although only two storeys high, the County Council granted permission on the grounds that it would need to be reduced in gross area so as to provide "an appropriate balance" between appropriate uses in the estate and provision of adequate open space. Had it been built, the subsequent commercial development would have had to be part-single, part-two storey to meet Cork County Council's requirement for a reduction in scale.

In the context of this history of balance, retention of open space and the guidance provided in the 1997 planning permission, the permission granted in 2008 for the combined commercial/residential three-storey development was an anomaly. The proposed layout differed from that indicated in the 1997 planning application, the loss of amenity was significantly greater than that previously apparently acceptable and the proposed structure was notably higher than what had been deemed in 2001 to be excessive. I concur with the comments from the County Council's planner that the design of the building currently seeking permission appears to be based on that for which permission was granted in 2008. However the significant difference between the 2008 development and that currently proposed is that at least the 2008 made some effort to respond to the commercial intentions for this site made so clear in the parent planning application. Never at any stage was this site intended for residential development.

The purpose of this site as outlined in the parent planning application in 1997 was to serve the needs of the Pembroke Wood estate. There is often merit in the incorporation of facilities for residents in larger developments such as Pembroke Wood because they increase residential amenity and reduce the need to travel. Cork County Council's *Design Guide for Residential Estate Development* (2011) considers it *"good practice for any development of more than 400 dwellings to have such facilities grouped together in a reasonably central position, easily accessed from entry points to the estate"*. This was indeed the original intention of the parent planning permission and the green space is adequately central and accessible to respond to the requirements of this *Design Guide*.

A residential development of 18 apartments as currently proposed does nothing to contribute to the needs of Pembroke Wood. In fact, for all the reasons previously proposed and more (as will be outlined further), it detracts significantly from those needs. If the time is not right to provide the commercial development originally intended at this location, then those needs of the estate are by far best served by maintaining the site as public open space. This is what Cork County Council intended from the outset. Condition 3 attached to the parent planning permission was in effect Cork County Council's commitment of intent for this green space and residents of the now 20-year old estate purchased their homes on the basis of that commitment: the green space in front of the crèche is to serve the needs of the estate as public open space until the a commercial development of limited size serving the needs of the estate is developed.

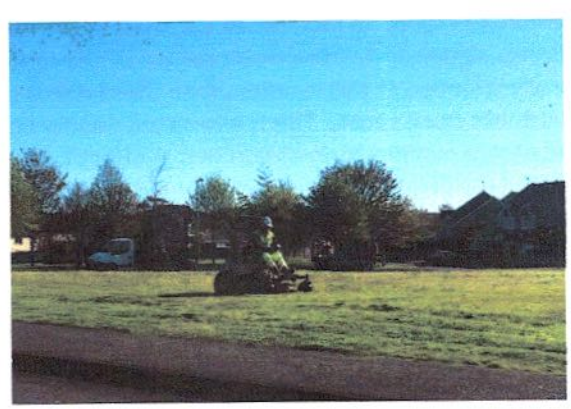
5. **Consequences for existing residents of Pembroke Wood arising from the applicant's failure to prove ownership of the site.**

Pembroke Wood has not been taken in charge by Cork County Council. This presents ongoing challenges and management difficulties for the residents of the estate. Should the proposed development be permitted, the resultant challenges would be insurmountable.

Histron Ltd. was a joint venture between two developers: John F. Supple and Manor Park Homes. John F. Supple experienced financial difficulties from 2008, moving off the Pembroke Wood site some time around 2009. They subsequently went into receivership in 2012. Between 2006 and 2011, the residents of the estate had, through the Pembroke Wood Residents Association, been attempting to liaise with Manor Park Homes in achieving the aims and commitments of the planning permission for the estate. Several issues remained outstanding when Manor Park Homes went into receivership in 2011. A bond remains in place for the satisfactory completion of Pembroke Wood. The bondholder has to date refused to engage with Cork County Council on its release. Pembroke Wood is therefore still not taken in charge.

The residents of Pembroke Wood look after the maintenance of the estate almost entirely on their own. Photos below show young residents helping to clear years of detritus from gullies on Pembroke Park Drive late last year. Although hugely anxious to install ramps on the straight stretch of Pembroke Park Drive and willing to raise the necessary finances themselves, the Residents Association cannot ascertain from whom to seek permission to advance this development. On behalf of the Residents Association, I have corresponded with both the receiver and liquidator of John F. Supple and with the receiver of Manor Park Homes in an unsuccessful attempt to confirm ownership of the estate roads.

The green area in front of the crèche was used as a construction compound during 2008-2010 (approximately) by Paul Hanlon, the registered owner, while doing finishing work in the estate on behalf of Manor Park Homes (photo below). After it was cleared of the Harris fencing and equipment, it was left in a condition that could not be cut by the grasscutting contractors engaged by the residents.



Members of the Residents Association committee hand-picked the entire space of large stones and continued to strim it by hand under the surface had improved sufficiently to allow a ride-on mower to pass safely over it (photo above). The residents of the estate have paid for the maintenance of this green area since.

Should this developer be permitted to proceed with the construction of the proposed apartment block, construction machinery will traverse the private estate roads. Cork County Council gave permission for setting back of the footpath to the north of the proposed development to accommodate parallel parking. But this is a private footpath. The developer would be finished and gone and it would be the residents of Pembroke Wood who would either have to live with the infrastructural damage, particularly to Pembroke Park Drive or who would somehow have to raise the funds for their rehabilitation. In fact, even if the unlikely event that the residents were successful in raising those funds, they would not know from whom to seek permission to relay the surface.

Aware of the position that the residents of Pembroke Wood are in, Cork County Council has repeatedly asked the developer to prove ownership of this green area. To date, the developer has failed to do so. The planning application documentation submitted to Cork County Council on 7th July states that Rowan View Developments as applicant is the owner of the site of proposed development. On 10th July, M Byrne on behalf of the applicant submitted a further unsolicited email to Cork County Council confirming that Rowan View Developments is the owner of the land which "*adjoins, abuts or is adjacent*" to the site.

Arising from concerns raised during the planning process, Cork County Council requested evidence of that ownership in a further information request. A solicitor on behalf of the applicant subsequently stated in a letter dated 17th November 2017 that Rowan View Developments is indeed the purchaser of the site but did not provide proof. Again, Cork County Council requested evidence of ownership in yet another further information request. The same solicitor responded on 26th March 2018 suggesting that an entity called Unique Fitout owns the site but that Rowan View Developments have permission to make the necessary application. Neither proof of the ownership of Unique Fitout nor of an agreement with Rowan View Developments was demonstrated.

If the applicant is <u>not</u> the owner as suggested in the response to further information submitted on 26th March last, then Cork County Council was deliberately misled on three previous occasions. Neither Rowan View Developments nor Unique Fitout from whom the applicant's solicitor states permission to develop has been received is identified as the current owner for the site on the Land Registry Certificate. Paul Hanlon, to whom the 2008 planning permission was granted, remains the last registered owner. If the site had been sold subsequently, its new ownership should have been communicated to Land Registry. If it was sold, it was not advertised on the open market. Had it been, the Residents Association would have moved heaven and earth to purchase it so that it could deliver to the needs of the estate in perpetuity.

I fully accept that issues pertaining to land ownership are generally resolved through courts rather than through the planning process. But Section 5.13 of the *Development Management Guidelines* (2007) provide a clear instruction in relation to issues of title:

"Under the Planning Regulations as amended, a planning applicant who is not the legal owner of the land or structure in question must submit a letter of consent from the owner in order to make the planning application. Where an applicant is not the owner and does not submit such a letter of consent, the application must be invalidated".

When it became clear on 26th March that the applicant was not the owner of the land, despite having lodged the application on that basis and evidence of the agreement between the rightful owner and the applicant was not provided, Cork County Council should have invalidated this planning application.

The Board's function is to adjudicate on proper planning and sustainable development. In my respectful opinion, it is not possible for the Board to perform this function in the absence of the applicant demonstrating:

1) The necessary proof of ownership of this area of ground in the middle of a private estate, including the a copy of the legal agreement between that owner and the developer of the estate (Histron) which allows the applicant to connect to private services for surface and foul water disposal and water supply and the rights of passage over the Pembroke Wood estate. Evidence of a legal agreement such as this was submitted with the 2008 planning application.

2) If the applicant is not the owner, the necessary proof of agreement between the registered owner of the site and the applicant for development of the area as proposed.

Whichever, it is critical to us as residents in Pembroke Wood that permission to traverse and interfere with the infrastructure of our estate is demonstrated beyond reasonable doubt. If this apartment development goes ahead as proposed, we as residents will be the only ones on the ground left to finance and execute the clean-up after it is completed. We ask the Board to consider that it surely cannot be regarded as proper planning and sustainable development to leave a legacy of damage to estate roads from construction traffic, augmented passage of residential traffic, vastly increased pressure on already pressurised parking, an increased risk of safety to children, loss of usable open green space in an estate that is underprovided with regard to recreation, loss of light for existing residents and a visually unattractive entrance framed by a bin store in the absence of being absolutely certain that the developer to whom permission is being granted to execute this destruction does so with either registered ownership or with in accordance with a demonstrated written agreement from the registered owner.

The residents of Pembroke Wood are utterly dependent on the Board to seek that evidence where Cork County Council has to date failed. In the absence of the evidence being provided, we sincerely ask the Board to consider it appropriate to observe Paragraph 5.13 of the *Development Management Guidelines* (2007) and to deem this planning application invalid.

Moreover, should the applicant finally provide proof of ownership or permission from the registered owner to develop this green space, we ask the Board to note how the proposed development would:

- Fail entirely to meet the aims of the parent planning permission for Pembroke Wood
- Fail to meet the requirements of Cork County Council with regard to use of this area until commercially developed
- Fail to architecturally enhance the entrance to Pembroke Wood
- Increase pressure on residential parking to the extent that it would become a health and safety risk
- Increase traffic through a residential estate and in particular past the main green of the estate
- Cause loss of a valuable green space in an estate where committed to recreational infrastructure was not provided
- Be deficient in its own right in provision of residential open space
- Cause severe visual disamenity and loss of direct sunlight to existing residents of existing adjacent apartments
- Constitute overdevelopment for this "island" site in a visually prominent, central space in an established residential estate.

I sincerely ask An Bord Pleanála to refuse this planning application.

Please find enclosed my two submissions to Cork County Council in respect of the proposed development, my receipts therefor and the required fee of €220.

Yours faithfully,

Marcia D'Alton,
Independent Member, Cork County Council