Report to	Planning applications committee 4 December 2014	**Item**
Report of	Head of planning services	
Subject	Application ref: 12/01598/VC Wentworth Gardens	4G
Reason for referral	Amendments to previous planning committee resolutions and updates on outstanding matters	

Site address	Wentworth Gardens, site of former Civil Service Sports Ground, Wentworth Green, Norwich
Ward:	Eaton
Case officer	Rob Parkinson - robparkinson@norwich.gov.uk

Development proposal		
Variations to the terms of the approved Section 106 Agreement forming part of the planning permission 07/01018/F, as proposed to be varied through pending application 12/01598/VC: Variation of conditions 2 and 7 - changes to approved plans and details and schedule of trees to be retained; and condition 8 - changes to required drainage system designs, of planning permission 07/01018/F (Erection of 78 dwellings). Variations concern tree felling strategy, tree works and landscaping proposals, and maintenance thereof, and drainage systems construction and ongoing management thereof.		
Representations		
Object	Comment	Support
n/a	n/a	n/a

Main matters for consideration	**Key issues**
Affordable Housing	1) Demand for existing affordable housing on site 2) Alternatives to on-site provision
Recommendation	Approve proposed changes to Section 106 Agreement.

The site and surroundings

1. The site is the development known as Wentworth Gardens, for the most part completed and occupied, at the former Civil Service Sports Ground accessed from Wentworth Green and Brentwood. This item solely concerns Plots 40 and 41 of the original permission, accessed from Brentwood, as seen on the attached plan.

2. Committee is asked to consider only a proposed change to the terms of the affordable housing provision at the site, as currently required under permission 07/01018/F and the completed Section 106 Agreement of that permission.

3. There are no other changes proposed as part of this report which would affect the external appearance of the development, or its physical relationship to the surrounding residential area, or the other terms of the agreement or planning permission which have already previously been agreed by planning committee.

Relevant planning history

4. **07/01018/F** – "Erection of 78 dwellings, associated vehicle and pedestrian/cycle accesses, ground works and open space", approved November 2009. The report to planning committee for this can be seen under committee meetings of 21 August 2008.

5. The permission and its Section 106 Agreement (S106) requires 30 per cent on-site Affordable Housing (23 out of the 78 dwellings), of which 75 per cent (17 dwellings) are to be social rented tenure, and 25 per cent (6 dwellings) were to be 'shared ownership' tenures.

6. Committee approvals since then have twice allowed changes to the S106 terms of affordable housing provision**,** on 11 November 2010 and 23 August 2012.

7. The approved changes of November 2010 and August 2012 allow the 25 per cent 'shared ownership' units to instead be delivered as intermediate tenures, being either Shared Ownership, or Affordable Rent or Shared Equity housing. Affordable Rent means housing available at rents of 80 per cent of the market rental value. The Shared Equity housing means housing which would be marketed and sold at 75 per cent of the open market value, with the remaining 25 per cent equity in the property being transferred to the City Council. This is the format of affordable housing which has most recently been pursued by the applicant for all 6 intermediate tenure affordable houses.

8. The Committee report and minutes of November 2010 are available on the council's website.

9. **12/01598/VC -** This is a current application pending issuing of the decision notice for changes to the agreed tree protection, landscaping and drainage schemes, the merits of which were approved by Committee on 14 February 2013.

10. Subsequently, on 6 February 2014 Planning Committee then approved further changes to the S106 relating to financing of the drainage scheme and the extent of highways works required by the developer, contrary to previous expectations of the original S106.

11. The decision notice for application 12/01598/VC has not yet been issued because of delays in agreeing the associated Section 106 Agreement which is varied by both the conditions and obligations on management and financing of tree belts, drainage, highways works and affordable housing amongst other technical matters.

12. The matters in this item are the final elements of the Agreement in need of variation before the decision can be issued.

The proposal

13. The applicant seeks authority to dispose of the development's final two affordable housing dwellings to the open / private sector market rather than be used as affordable housing. In compensation for their loss from the affordable housing stock, the applicant and officers propose that a financial contribution commuted sum be paid to the Council for providing alternative affordable housing off-site.

Summary information

Proposal	**Key facts**
Scale	
Total no. of dwellings	**78 originally, 78 remaining**
No. of affordable dwellings	**ORIGINAL PERMISSION: 23 on site, comprising 17 at social rent tenure and 6 at intermediate tenures;** **REVISED PROPOSALS: 21 on site, comprising 17 at social rent tenure and 4 at shared equity tenure, and a financial contribution for off-site provision by the Council.**

14. These specific affordable housing proposals have not been advertised on site as there are no material changes to the way the scheme appears or functions, and the original permission did not determine which dwellings would be affordable at the time permission was granted.

15. The amendments have been discussed in detail and agreed in principle with the Council's Strategic Housing department, which has worked with the applicant for some months to try and find appropriate occupants for the two remaining units.

Assessment of planning considerations

Relevant development plan policies

16. **Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS)**
    - JCS4 Housing delivery
    - JCS20 Implementation

17. **Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan)**
    - DM1 Achieving and delivering sustainable development
    - DM12 Ensuring well-planned housing development
    - DM33 Planning obligations and development viability

Other material considerations

18. **Relevant sections of the National Planning Policy Framework March 2012 (NPPF):**
    - NPPF0 Achieving sustainable development
    - NPPF6 Delivering a wide choice of high quality homes

19. **Guidance:**
    - Interim Statement on the off-site provision of affordable housing in Norwich (December 2011)
    - Draft Affordable Housing Supplementary Planning Document, anticipated for consideration by the Council's Sustainable development panel 17 December 2014, and adoption by Cabinet on 14 January 2015.
    - National Planning Policy Guidance

Case Assessment

20. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant development plan polices are detailed above. Material considerations include policies in the National Planning Framework (NPPF), the Councils standing duties, other policy documents and guidance detailed above and any other matters referred to specifically in the assessment below. The following paragraphs provide an assessment of the main planning issues in this case against relevant policies and material considerations.

Main issue 1: Demand for existing affordable housing on site

21. All 17 social rented properties and 4 of the 6 intermediate tenure dwellings have been successfully transferred to a Registered Provider as affordable housing. However, there are two 2-bedroom bungalows that remain unsold and the developer is keen to dispose of them. Being intermediate tenure units the developers' possible options for use as affordable housing include shared equity, shared ownership and affordable rent tenures (as already previously approved by planning committee).

22. The two remaining bungalows have been advertised and marketed to the public and registered affordable housing providers as shared equity homes for over 18 months (both off-plan and as-built).

23. Shared equity homes enable an eligible purchaser to buy a shared of 75 per cent of the property, and in this case the remaining 25 per cent would be granted to the Council. Both parties would benefit from an increase in housing prices if the 75 per cent holder wished to sell, or the 75 per cent holder could gradually after 5 years begin to buy more of the 25 per cent equity from the Council. Because interested purchasers have to be on the housing needs register there appear to be few

purchasers who can afford the required purchase price of 75 per cent of the market sale value. For information at August 2013 the properties were available as below:

House type	Total purchase price	Minimum per cent deposit	Remaining mortgage needed (7 per cent)	Equity share (25 per cent)
2 bedroom bungalow with car parking space	£189,950	£9,498	£132,965	£47,487

24. Essentially, the applicant believes the lack of interest to be because the same purchase price (even when discounted) could provide a home of similar size elsewhere in the city, and up to 100 per cent of a property. Of the other forms of permissive intermediate tenure, Shared Ownership has similar issues with the market value cost being prohibitive because the terms only allow 50% of the property to be purchased in the first instance and then additional purchasing proves expensive. Similarly, Affordable Rent requires rent paid at 80% of market rents which is also prohibitive to most eligible residents as market rent values are so high in this area. Colleagues in in Strategic Housing agree with these assessments.

25. Provision of affordable housing on site remains the council's preferred method, and is also the preference set out in government guidance, as this promotes social inclusion. However, despite four of the six shared equity homes having been sold to those in housing need, officers agree that the remaining units have been advertised for sufficient time to determine that there is no eligible interest, and alternative options should be considered for disposing of these bungalows.

Main issue 2: Alternatives to on-site provision

26. It should be noted that if the only option made available to the developer was to require these two homes to be rented at social rent levels then it would not really be reasonable on the developer as they entered into the scheme expecting to provide 17 (75%) social rented units, and costed their scheme accordingly. Additionally, exceeding 17 would have been contrary to the policy which was in place at the time the decision was made (although current JCS Policy 4 would have required an 85 per cent social rent / 15 per cent intermediate tenure split of the affordable housing units, being 20 social rent units and 3 shared equity units). Nevertheless, the Council should not object if the developer wished to sell the units to a Registered Provider for use as Social Rented units, but the Section 106 would still need amending to allow this.

27. Assuming social rent is not favoured or feasible, it would not be acceptable to allow disposal to the open market with no mitigating measures to counteract the loss of affordable housing stock. It is considered entirely feasible and pragmatic for the developer to pay a commuted sum to the Council for the purposes of providing new affordable housing off-site, and the proposed calculation for doing so should be based on policy mechanisms wherever possible.

28. The Council introduced such a calculation methodology in December 2011, as contained and discussed in the Interim Statement on the off-site provision of

affordable housing in Norwich (the 'Interim Statement') (endorsed by Cabinet 9th December 2011).

29. The Interim Statement interprets the provision within Joint Core Strategy 4 whereby a scheme which cannot provide affordable housing due to design constraints, practical difficulties or lack of interest from registered providers can be allowed to make a financial contribution commuted sum to the Council for equivalent off-site provision. The Interim Statement was intended to be applied to a scheme at the planning application / pre-development stage; however the principles can still be applied to this case retrospectively because it includes a practical calculation methodology based on the overall floorspace created by developments from which a proportionate quantum of floorspace is extracted for the share of affordable housing as would be expected by policy. Normally the affordable housing element would represent an amount of floorspace proportionate to the development's overall residential floorspace being created, but in this case the permission requires 30 per cent affordable housing (rather than the 33 per cent as would now be expected by JCS4). The affordable housing (AH) floorspace is then multiplied by a standard city-wide £/sq.m cost for land purchase and construction (£1,130.94), and £1,000 is added for legal matters. The Interim Statement calculation method is shown below:

    Scheme's net internal floorspace Sqm x % AH x £1130.94 + £1000 = **£ commuted**.

30. However, within Wentworth Green there are two key differences: Firstly, there are two units outstanding for which the actual floorspace areas are known (58 Sqm each, totalling 116 Sqm), whereas in percentage terms the two units represent 8.7 per cent of the 23 affordable houses. Secondly, the mix of units chosen for affordable housing (in consultation with Strategic Housing colleagues) was not representative of the overall floorspace provided on site. This means the standard calculation should not really be applied to this retrospectively, and it is considered more appropriate and reasonable to calculate the commuted sum based on the actual floorspace built, not the theoretical proportion expected pre-development.

31. The two calculations are shown below, and although the Interim Statement standard calculation would generate a significantly increased value, this is not considered an appropriate sum to require for the reasons explained above. The lower figure generated from factoring-in built floorspace is both fair and reasonable.

32. The approved scheme has provided a total 6,978.18 Sqm floorspace, 30% of which would have been 2,093.45 Sqm for all affordable housing floorspace, within which the 8.7 per cent share for two units would be 182.13 Sqm. This creates a sum as below:

    182.13 Sqm x £1130.94 = £205,978.67 + £1000 legal fees = **£206,978.67.**

33. In contrast, the built internal floorspace of the two bungalows is a combined 116 Sqm, so a proportionate commuted sum to replace the actual floorspace lost is:

    116 Sqm x £1130.94p = £131,198.04p + £1000 legal fees = **£132,198.04.**

34. Although the developer has not suggested that a commuted sum would be unviable, it is recognised that even the lower site-specific value is a significant sum of money, and the developer may seek to negotiate around this. Officers consider it necessary to allow some negotiation if it is supported by justifiable and robust

argument, including viability evidence if necessary, in the interests of ensuring occupation of available homes. To this end it is appropriate for the Section 106 to require the payment of £132,198.04 or an alternative sum to be first agreed by the Head of Planning in consultation with strategic housing colleagues, such sum to be required prior to the disposal or first occupation of either of the two remaining bungalows through open market disposal.

35. It is worth noting that the emerging Affordable Housing Supplementary Planning Document (expected to be adopted in January 2015) is proposing to use the same calculation methodology and figures / costs as those within the Interim Statement.

Other matters: Updates on tree belts, drainage facility, playing fields, landscaping and highways works

- Tree belt contributions will be paid for by the developer as required within the S106, with works and specified expenditure phased over some years as agreed previously. Residents are not pay for this unless the works exceed the sums already forecasted and budgeted for between developer and management company.

- The surface water drainage facility will be maintained by the management company using a budget specified in the S106, which comes from the overall estate management costs (£6.41 per dwelling per annum). Residents are not billed for surface water drainage by Anglian Water (they are only billed for foul drainage as they have mains sewer connections).

- Playing fields are expected to be constructed to a certain specification as per the landscaping proposals and maintenance and management plans presented within the application 12/01598/VC. To date there is some discussion about the success of the playing fields, which do not appear to have been provided to the expected method or specification. The developer will be required by planning condition and S106 to fulfil these commitments once the permission is issued. There was no original requirement to provide sports pitch markings on site; this is a matter for the residents association.

- Landscaping has not yet been provided to the specification proposed in the landscaping strategy within application 12/01598/VC. This will be required prior to occupation of the final units available on site, but some pragmatism will be required in that timescales should align with any necessary repairs to the playing fields. Some additional works remain to be resolved in the area behind 123 Greenways which are being discussed with the applicant.

- Previous committee decisions have resolved that a number of the original highways works required by the S106 are not actually necessary, and the only obligation being carried forward is to install cycle/pedestrian signage.

Equalities and diversity issues

36. There are no significant equality or diversity issues; the two remaining affordable housing units have been available on site for some months now in line with the terms of the planning permission, as shared equity tenure, and it is known that shared ownership and affordable rent do not prove feasible in this location. As neither the developer, Council or Registered Providers have been able to secure

appropriate interest in the two units it is considered more equitable to those on the housing needs register to secure funding for nee affordable homes elsewhere in the city at prices and tenures which are more affordable to the greater majority in need.

S106 Obligations

37. It is recommenced that officers continue to revise the draft Section 106 Agreement Deed of Variation to include the multiple amendments detailed in previous committee resolutions (the last schedule of which was seen in February 2014) and the inclusion of a clause to allow the payment of an Affordable Housing Commuted Sum as may be necessary, to an amount to be agreed with Officers based on the principles of the calculation methodology within the 'Interim Statement on the off-site provision of affordable housing in Norwich' document of December 2011.

Local finance considerations

38. Under Section 143 of the Localism Act the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. The benefits from the finance contributions for the council however must be weighed against the above planning issues.

39. This development would not generate Community Infrastructure Levy payments but using a commuted sum for affordable housing would not only help provide replacement affordable housing stock, but also attract New Homes Bonus grant. In this case, other than the overall question of securing contributions in lieu of continued on-site provision under Main Issue 2 above, other financial considerations are relatively limited and therefore limited weight should be given to them in the determination of the planning application.

Conclusion

40. Given the price of market housing units in Eaton it is understood that people in housing need cannot particularly afford the forms of intermediate tenure required by the permission. If the developer cannot transfer them to a Registered Provider for use as social rent tenures, then the only recourse is for the developer to be allowed to dispose of the units to the open market, but if this does prove to be the case it is necessary to ensure the developer provides the Council with appropriate funding for building affordable housing provision elsewhere in the city.

41. The general principles of maintaining an overall provision of affordable housing across a mix of unit types and tenures, and creating mixed communities at this site and other sites where commuted sums could build affordable homes, is supported by policies JCS4, DM1 and DM12, and the national planning policy framework. The use of a commuted sum to do so is in line with the objectives of JCS4, the existing guidance of the Interim Statement, the emerging Affordable Housing Supplementary Planning Document, and the provisions of the Community Infrastructure Levy regulations. As such the proposed amendment to the Section 106 Agreement and the subsequent issue of permission for application 12/01598/VC means the development will remain in accordance with the requirements of the National Planning Policy Framework and the Development Plan, and it has been concluded that there are no material considerations that indicate it should be determined otherwise.

Recommendation

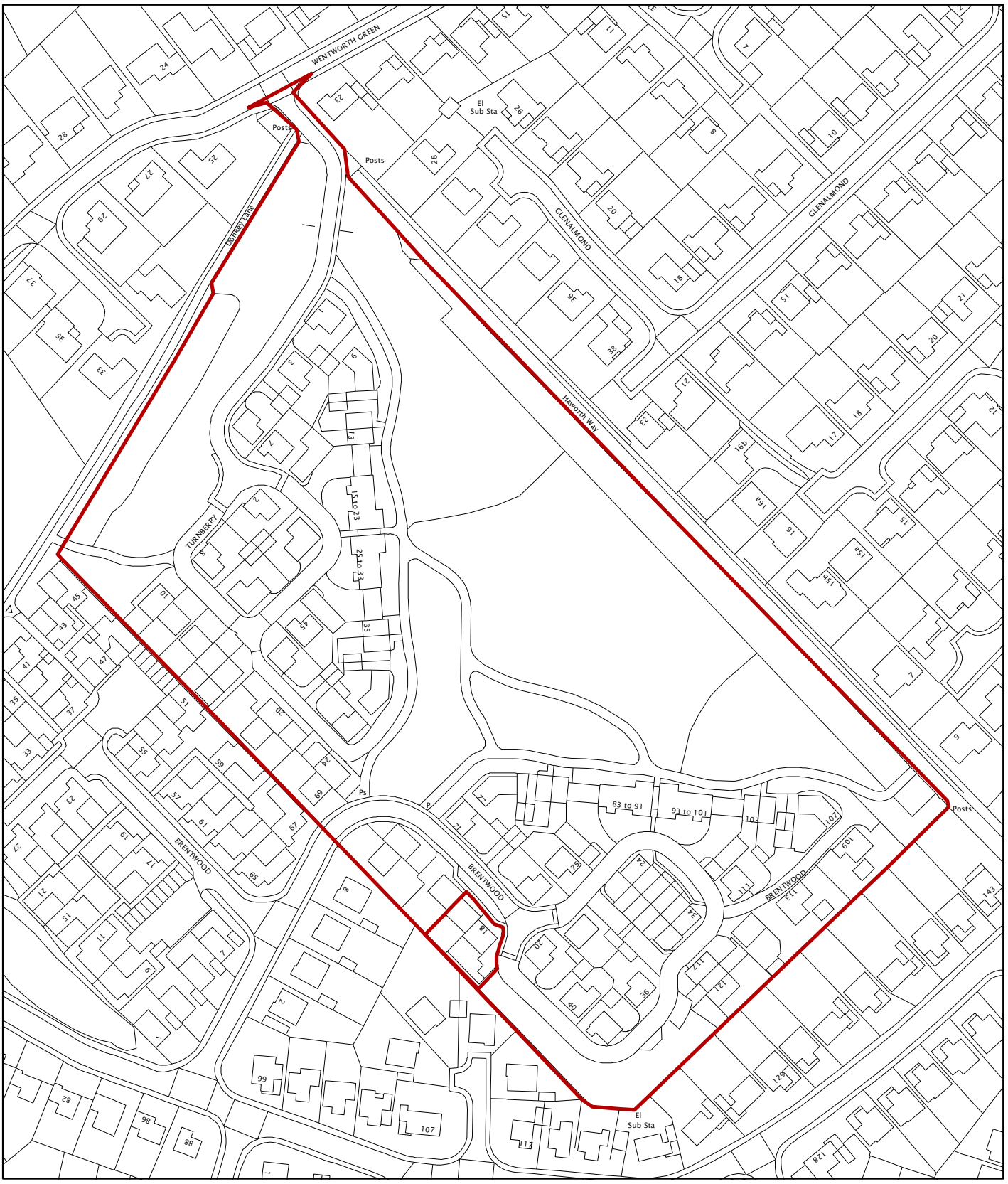
For the reasons outline above the recommendation is to approve the application 12/01598/VC Wentworth Gardens subject to the conditions and amended planning obligations as set by previous planning committee resolutions on 14 February, 2013 and 6 February, 2014, and subject to the following additional amendments to the Section 106 Agreement:

1. The two outstanding shared ownership bungalows can be used for either intermediate tenure (for the avoidance of doubt being shared ownership, intermediate rent or shared equity housing), or social rent tenure.

2. In the event they remain unfeasible as affordable housing the two bungalows can be disposed of to the open market only if a commuted sum financial contribution payment is first made to the Council; this sum being £132,198.04 index-linked, or an alternative sum to be first agreed by the Head of Planning in consultation with strategic housing, such sum to be required prior to the first occupation of either of the two remaining bungalows following open market disposal.

Article 31(1)(cc) Statement

The local planning authority in making its decision has had due regard to paragraph 187 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations, and has approved the application subject to the appropriate conditions and for the reasons outlined in the above officer report and preceding officer reports and planning committee resolutions.



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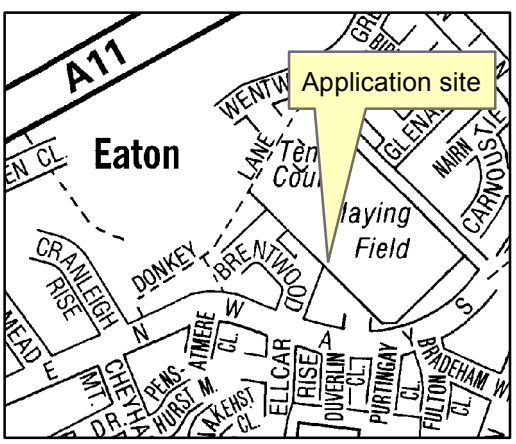
Planning Application No 12/01598/VC

Site Address Wentworth Green

Scale 1:1,750



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