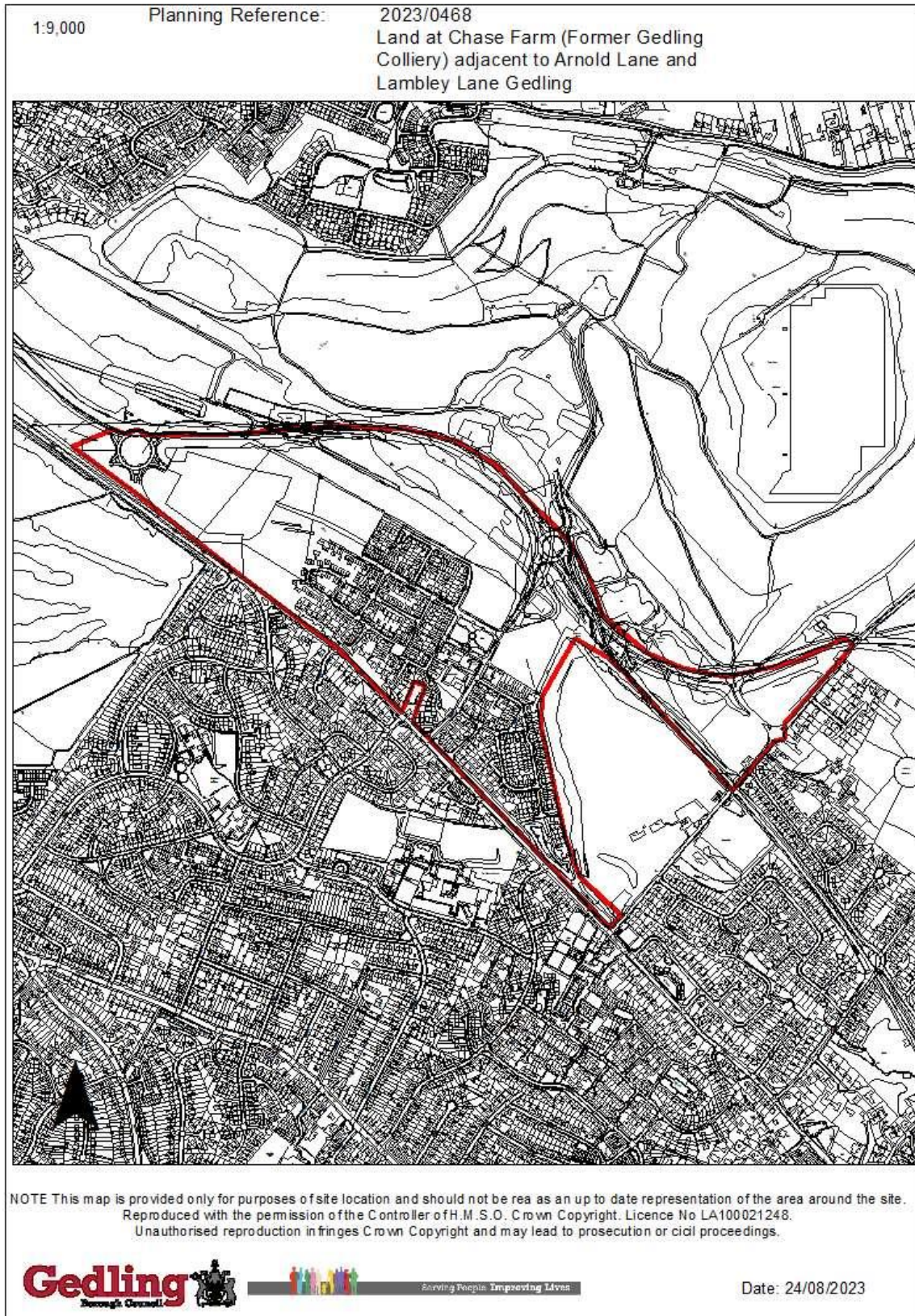




Planning Report for 2023/0468



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Report to Planning Committee

Application Number: 2023/0468

Location: Land At Chase Farm (Former Gedling Colliery),
Adjacent To Arnold Lane And Land Off Lambley Lane
Gedling

Proposal: Modification of the Fourth Schedule of the Section 106
Agreement at Chase Farm (2015/1376) in respect of
the Primary School Contribution and Primary School
Site.

Applicant: Nottinghamshire County Council

Agent:

Case Officer: Lewis Widdowson

This application, to modify a section 106 agreement, was originally deferred by the Planning Committee on the 6th September 2023 to allow the applicant the opportunity to obtain further information in relation to the points raised within the objections received and inform the decision on the application.

Following deferral, the applicant has submitted additional supporting documents in the form of a Nottinghamshire County Council (NCC) Further Statement dated Oct 23, Appendix 4 – Statement from Department of Education and Appendix 5 – Statement from Redhill Academy Trust.

The NCC statement provides additional information on forecast housing growth within the locality of the Chase Farm development, taking into account potential development sites including Sherwood E-ACT Academy, Primary School Land at Chase Farm, and Land at Mapperley Plains. These sites are anticipated to generate 201 additional dwellings if brought forward, which would require an additional 42 Primary Pupil Places. NCC remain satisfied that these additional places could be incorporated and provided for in the existing surplus demonstrated within the Carlton Primary Planning Area Average Five Year Projections. All additional supporting documentation has been made publicly available as part of the application.

Revisions and/or additions which have been made to the original Committee Report below, taking into consideration the additional supporting documents are highlighted in italics.

1. Site Description

- 1.1 The application site, known as Chase Farm, is located within the main built-up area of the settlement of Gedling, to the north of Arnold Lane and south of the newly constructed Colliery Way, the A6211.
- 1.2 The site comprises of a residential development with outline planning permission granted for up to 1,050 dwellings, a local centre with retail units and health centre, and new primary school. Approval of reserved matters has been granted for 970 dwellings and the local centre. The development is significantly advanced with approximately 400 completed/occupied dwellings at this time.
- 1.3 There are significant differences in ground level across the site with the north and north-western parts of the site being higher than the land to the southeast.
- 1.4 The gross site area is 33.12 hectares. The site shares its northern boundary with Colliery Way and Gedling Country Park but is otherwise surrounded by the urbanised areas of Gedling and Mapperley.

2. Relevant Planning History.

- 2.1 The below planning history outlines that for the entire allocated site since permission was granted in 2017.
- 2.2 On the 3rd March 2017 conditional planning permission was granted for the “Demolition of existing structures and phased development of 1,050 dwellings, local centre with retail units and health centre, and new primary school. Full planning permission for phase 1 to comprise the erection of 506 no. dwellings (2, 3, 4 and 5 bedroom houses and flats), vehicular access from Arnold Lane, internal roads and all associated infrastructure. Outline planning permission for subsequent phases, all matters reserved except for indicative access to the sites from phase 1, and future accesses from Gedling Access Road.” app ref: 2015/1376.
- 2.3 In September 2017 a Non Material Amendment was granted for Plots 218 – 228 substituting brickwork and plots 38 – 47 window alterations. Ref: 2017/0927NMA
- 2.4 In September 2017 a Non Material Amendment was granted for changes to external elevations of plots 112, 114 and 156. Ref: 2017/0928NMA.
- 2.5 In December 2018 planning permission was granted for the ‘Re-design of the balancing pond’ (ref: 2018/0813)
- 2.6 In January 2019 full planning permission was granted to replace plots 01, 02, 03, 169, 170 and 171 with alternative house types (ref: 2017/1018).
- 2.7 In January 2019 full planning permission was granted for the repositioning of plots 5, 6 & 7(rotation through 90 degrees) (ref: 2017/1076).
- 2.8 In January 2019 full planning permission was granted for the re-elevation of 71 no. plots (ref: 2018/0392).
- 2.9 In January 2019 full planning permission was granted for the substitution of house types in respect to 30 plots (329 – 358) with amended house types and layouts, (ref: 2018/0684).

- 2.10 In August 2020 full planning permission was granted for the substitution of the house type to plot 329, (reference 2019/0586).
- 2.11 In August 2020 full planning permission was granted for a 3 plot re-plan of plots 229, 230 and 231 (reference 2019/0304).
- 2.12 In August 2020 full planning permission was granted for replacement house types of 204 dwellings (ref: 2019/0759).
- 2.13 In August 2019 full planning permission was granted for 'construction of an access junction off the Gedling Access Road' (ref: 2019/0500).
- 2.14 In June 2020 a resolution to grant permission to (2019/0696) 'remove condition 2 of planning permission 2015/1376 to remove the construction cap of 315 dwellings and to allow building within Phase 1B prior to the completion of the Gedling Access Road' was agreed. The decision notice was issued on the 20th August 2020.
- 2.15 In September 2020 a resolution to grant planning permission for the 're-design of the landscaping for the Urban Square' was approved (2020/0545), subject to a deed of variation to the Section 106 legal agreement. The decision notice was issued on the 21st December 2021.
- 2.16 In October 2020 a resolution to grant planning permission for the erection of 31 dwellings (2020/0667) was approved subject to a deed of variation to the Section 106 legal agreement. The approval for a re-plan of a similar scheme for the erection of 29 dwellings approved under reference 2018/0684. The decision notice was issued on the 21st December 2021.
- 2.17 In March 2022, Reserved Matters planning permission for access, appearance, landscaping, layout and scale for the construction of 433 dwelling was granted at planning committee under the reference 2021/1294.
- 2.18 Gedling Borough Council, Nottinghamshire County Council, Keepmoat Homes and Homes England entered into a legal agreement dated 3rd March 2017 pursuant to Section 106 of the Town and Country Planning Act 1990 to secure planning obligations in relation to the hybrid planning application reference 2015/1376 (the 'Original Section 106 Agreement'). The Original Section 106 Agreement secured planning obligations relating to Affordable Housing, Air Quality, Open Space, Primary Healthcare, Education and Transport.
- 2.19 All parties subsequently entered into a variation of the Original Section 106 Agreement dated 7th January 2019 ('First Variation') to amend the definition of "Development" to include reference to "Ancillary Applications" which means the following planning permissions; 2017/1018, 2017/1076, 2017/1275, 2018/0249, 2018/0392 and 2018/0684.
- 2.20 A second variation of the Original Section 106 Agreement was entered into on the 17th August 2020 ('Second Variation') to amend the definition of "Ancillary Applications" to include reference to the following permissions; 2019/0304, 2019/0586, 2019/0759, 2018/0249, and 2019/0696.
- 2.21 The parties entered into another variation of the Original Section 106 Agreement on the 17th December 2021 ('Third Variation') to amend the

definition of “Ancillary Applications” to include reference to the following permissions; 2020/1255, 2020/0667, and 2020/0545.

3. Background

- 3.1 The Original Section 106 Agreement between Gedling Borough Council, Homes and Communities Agency (the ‘Owner’), Nottinghamshire County Council (‘the County Council’) and Keepmoat Homes Limited (the ‘Developer’) was completed on the 3rd of March 2017, the provisions of which remain in force, albeit with variations, as detailed above.
- 3.2 Part 1 of the Fourth Schedule of the Original Section 106 Agreement details a planning obligation for the Owner to transfer the Primary School Site, as defined within the terms of the Original Section 106 Agreement, to the County Council or its nominee and outlines the requirement for the Owner to pay a financial contribution of £3,600,000 (index linked) to the County Council in prescribed instalments (the ‘Primary School Contribution’). Part 1 also confirms that the County Council covenants with the Owner and Developer to only apply the Primary School Contribution for the provision of an on-site primary school or for extending and/or improving Stanhope Primary School or such other school or schools in the vicinity of the site.
- 3.3 Part 2 of the Fourth Schedule details the provisions relating specifically to the transfer of part of the site for the delivery of a primary school, including how the costs of such a transfer shall be apportioned and what state the site should be in at the time of transfer.
- 3.4 *This application was first considered by Planning Committee on Wednesday the 6th September 2023. Members resolved to defer the application to allow time for additional information to be provided following objections which were raised during the initial consultation period.*
- 3.5 *Subsequently, additional supporting documents have been provided by the applicant. These have been made publicly available and subject to a further re-consultation.*

4. Proposal

- 4.1 This application has been submitted by Nottinghamshire County Council “The County Council” as they seek to remove the planning obligation for the developer to provide the primary school site (1.2ha), as detailed within the Fourth Schedule of the Original Section 106 Agreement, and to modify the terms of the Primary School Contribution of £3,600,000 (index linked) to enable it to be repurposed to permit expenditure on expanding secondary school capacity within the vicinity of the development and a new pedestrian crossing on Arnold Lane.
- 4.2 The County Council have submitted a planning statement as part of the application which sets out the justification for seeking to modify the Original Section 106 Agreement.

5. Consultations

- 5.1 Consultation has been undertaken on the proposed modifications with site notices displayed around the application site and a press notice.

- 5.2 Nottinghamshire County Council (Highways Authority) - It is understood the modification to the S.106 agreement will facilitate educational provision at other nearby facilities in view of the standalone school at Chase Farm no longer being progressed. There are opportunities to provide a pedestrian crossing on Arnold Lane that will accommodate the additional pupil patronage from the western side of the site, with monies of c. £100k being made available to ensure delivery.
- 5.3 Keepmoat Homes – Keepmoat express their disappointment that the school site will no longer be delivered on site at Chase Farm. The preference would be to see the site utilised for its original intention to serve the residents of Chase Farm by creating a community with local services within walking distance of their homes rather than a reliance on cars.
- 5.4 Homes England – No comment. Representation has been provided by Keepmoat Homes.
- 5.5 In total 11 representations have been received following the public consultation. Of these, 10 representations have been received from members of the public in support of the application. A summary of the main comments raised in support of the application are as follows:
- Increase in local pupils has resulted in a need to develop existing secondary provision to Redhill Academy Trust, including the provision of green space and redevelopment of existing spaces to meet with place pressure.
 - Expansion to Carlton Academy is sorely needed due to ever-expanding and over-subscribed schools. The current site is already stretched to its limits with lack of classrooms and unfit facilities.
- 5.6 One representation was received from Councillor Jenny Hollingsworth objecting to the proposed modifications. The main points raised are summarised below:
- The County Council confirmed that the development of 1050 dwellings would yield sufficient pupils to sustain a single form entry primary school. Houses on the development known as Chase Farm were marketed for sale with a Primary School as part and parcel of the development. New homeowners are now bitterly disappointed that the County Council are proposing their children go to another school some distance away.
 - The proposal suggests that Stanhope, Haddon and Phoenix Infant Schools are within an acceptable and safe walking distance from Chase Farm. These schools may fall within a 20-minute walk of the development but are not considered to be acceptable alternatives given the busy roads pupils must cross. These are not considered to be safe or convenient in accordance with the Aligned Core Strategy 2014.
 - The lack of a safe and convenient route encourages car usage which defeats the objectives of the emerging Greater Nottingham Strategic Plan and leads to congestion around schools and increases air pollution.
 - Page 4, para 4.7 of the County Councils planning statement suggests possibility for a further pedestrian crossing to serve the west of the development to reduce walking distances however there appears insufficient space to install a footpath and even if this could be achieved could be years away.

- A search of the school catchment areas for Chase Farm shows Lambley Primary School and All Hallows School and does not mention Stanhope, Phoenix and Haddon. Children from Chase Farm already attend Lambley Primary School which is definitely not within a 20-minute walk. Rivendell has also been suggested but again is not suitable in terms of convince or safety.
- Finally, a new school at the heart of the development is fundamental to establishing a sense of place and encourage community cohesion. A school encourages community engagement in extra curricula activities such as a PTA, organising/supporting school events and school governorship. It also helps promote friendship bonds between local residents.

5.7 *One representation was received from Councillor Michael Payne objecting to the proposed modifications along with a petition signed by 121 people. The main points raised are summarised below:*

- *Nottinghamshire County Council should keep their promise to fund and build a new primary school for Chase Farm / Park View estate in Gedling.*
- *Local families should not be paying the price for lack of planning at Nottinghamshire County Council to deal with pressure on pupil place provision in Gedling.*
- *Many families sold houses on Chase Farm on the clear understanding a new primary school would be built on the estate. Breaking this promise would be utterly unacceptable and place further pressure on existing primary schools across Gedling.*
- *Other schools proposed by Nottinghamshire County Council are not within the catchment area or are not within a suitable distance for use by residents of Chase Farm.*
- *Nottinghamshire County Council was warned about a shortfall in secondary school places in the Gedling Borough area back in 2019 by then MP Vernon Coaker and local residents.*
- *Nottinghamshire County Council has chosen to invest in additional primary school provision in other areas of Nottinghamshire even where there is a projected 'surplus' of places.*
- *Circa 900 secondary school places lost when the Department for Education closed the former Gedling School/Sherwood E-ACT Academy site in 2016, placing further pressure on secondary school places across communities within Gedling.*
- *Nottinghamshire County Council should find alternative ways of funding the much-needed expansion of Carlton Academy including; lobbying central government; reviewing the current basic needs allocation within the County Council; consider the use of one-off reserves held by Nottinghamshire County Council; and capital receipts from Nottinghamshire County Council which have yet to be allocated to specific projects.*

5.8 *A 14 day re-consultation with all relevant stakeholders has been undertaken and site notices were readvertised in and around the application site to notify local residents of the latest supporting documents.*

5.9 One additional representation was received as a result of the 14 day re-consultation. The main points raised in this letter of support are detailed below:

- The Carlton Academy is a highly successful, oversubscribed secondary school which OFSTED graded as "good". The School is part of a highly successful local Multi-Academy Trust, which provides a high standard of education to over 4500 students in the Borough.
- The Redhill Trust has invested over £1m in site developments in the last four years. In 2019, The Carlton Academy raised its PAN to 230 to accommodate the rising number of catchment families supported by a £3m investment from Nottinghamshire County Council in line with expansion of housing on the former Gedling Colliery site at Chase Farm.
- In 2022 a further 30 children were admitted, taking the total up to 260, on the caveat of further investment. No additional capital has been provided. In 2023 the Carlton Academy again agreed to admit 260 students due to catchment demand however it is not possible to admit additional students beyond the current PAN total of 230 without significant capital investment.

6. Planning Considerations

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'.

6.2 Where an application is made to modify a planning obligation under s106A(3) of the Town and Country Planning Act 1990 (as amended) (the 'Act'), the test set out in s106A(6)(c) of the Act is "if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

6.3 In considering an application to modify a planning obligation courts have held that the correct approach was that four essential questions need to be considered (as originally set out in *R (The Garden and Leisure Group Ltd) v North Somerset Council* [2003] EWHC 1605 (Admin)):

- I. What is the current obligation?
- II. What purpose does it fulfil?
- III. Is it a useful purpose?
- IV. If so, would the obligation serve that purpose equally well if it was subject to the proposed modifications?

6.4 Whether the expression "a useful purpose" should be read as a "useful planning purpose" has been the subject of differing opinions in the Courts but this has been settled in the Mansfield case I mentioned (*R (Mansfield District Council) v Secretary of State for Housing, Communities and Local Government* [2018] EWHC 1794 (Admin)). The High Court found that the inspector had failed to identify the useful purpose that the planning obligation served and to consider whether that purpose remained extant and that this was an error of law, not a

matter of planning judgment. The Court confirmed that the question to be addressed is whether the obligation served any useful purpose, not any useful planning purpose. Therefore, public interest purposes that an obligation may serve can constitute a useful purpose under the above test.

6.5 *In terms of discharge of the planning obligation the test in terms of whether the planning obligation serves a useful purpose would need to be applied. In the Mansfield case the judge made it clear that when considering discharge of the obligation the critical element in relation to the 'useful purpose' question is whether the obligation serves some useful function, the absence of which makes the maintenance of the obligation pointless. Members should consider whether the transfer of the primary school site would serve a useful purpose and if not then the obligation should be discharged.*

7. Development Plan Policies

7.1 National Planning Policy Framework 2021

7.1.1 Sets out the national objectives for delivering sustainable development. Section 8 (Promoting healthy and safe communities) is of particular relevance. Section 9 (Promoting sustainable transport) is also relevant.

7.2 Gedling Borough Council Aligned Core Strategy Part 1 Local Plan (2014)

7.2.1 Policy 12: Local Services and Healthy Lifestyles sets out that, *inter alia*:-

1. New, extended or improved community facilities will be supported where they meet a local need.
2. Community facilities should:
 - b) be in locations accessible by a range of sustainable transport modes suitable to the scale and function of the facility

7.2.2 Policy 14: Managing Travel Demand

1. The need to travel, especially by private car, will be reduced by securing new developments of appropriate scale in the most accessible locations, in combination with the delivery of sustainable transport networks to serve these developments.

7.2.3 Policy 18: Infrastructure sets out that:-

2. Contributions will be sought from development proposals which give rise to the need for new infrastructure.

7.2.4 Policy 19: Developer Contributions sets out that:-

1. All development will be expected to:
 - a) meet the reasonable cost of new infrastructure required as a consequence of the proposal;

b) where appropriate, contribute to the delivery of necessary infrastructure to enable the cumulative impacts of developments to be managed, including identified transport infrastructure requirements; and

c) provide for the future maintenance of facilities provided as a result of the development.

7.3 Local Planning Document Part 2 Local Plan (2018)

- Policy LPD 35 Safe, Accessible and Inclusive Development
- Policy LPD 58 Cycle Routes, Recreational Routes and Public Rights of Way
- Policy LPD 61 Highway Safety

7.4 Other Guidance

7.4.1 Nottinghamshire County Council – Developer Contributions Strategy (2021)

This is a Nottinghamshire County Council document which describes its aim as being to provide a fair, consistent, and transparent basis for the negotiation of planning contributions for those matters that affect the services provided by the County Council.

8. Planning Considerations

8.1 Section 106A(1)(a) of the Town and Country Planning Act 1990 sets out that a planning obligation may be modified or discharged by agreement between the local planning authority and entity against whom the obligation is enforceable, in this case this would be both Homes England and Keepmoat.

8.2 Part 1 of the Fourth Schedule of the Original Section 106 Agreement contains an obligation for the owner of the site to transfer the Primary School Site to the County Council or its nominee and to undertake works to service the site and make it suitable for the construction of a primary school and to pay the Primary School Contribution in accordance with the provisions of this Schedule.

8.3 Primary School is a defined term within the agreement which “means a single form entry primary school to be constructed on the Primary School Site”.

8.4 The Primary School Site is similarly a defined term within the agreement which “means the 1.2 hectares of land shown for identification purposes only coloured light blue on the Parameters Plan to be transferred as a fully serviced site up to the boundary of the land in accordance with the provisions of the Fourth Schedule for the construction of the Primary School to serve the Development”.

8.5 The Primary School Contribution is defined within the Original Section 106 Agreement as “the sum of £3,600,000.00 (Three Million Six Hundred Thousand Pounds) index linked to the [County Council] BCIS Index”.

8.6 Paragraph 9. of Part 1 of the Fourth Schedule stipulates that:-

“The County Council covenants with the Owner and the Developer only to apply the Primary School Contribution for the provision of the Primary School or for expenditure on the Primary School or for extending and/or improving Stanhope

Primary School or such other school or schools in the vicinity of the Site able to accommodate the increases in primary pupil numbers arising from the development”.

- 8.7 The purpose of this obligation, as set out in the Officers Recommendation Report taken to Planning Committee on the 18th May 2016, was to mitigate, in collaboration with potential future CIL receipts, the additional demand placed on educational facilities created by new residents of the Chase Farm development. Without this obligation it was at the time forecast that the additional demand would result in there being a shortfall in the capacity of both primary and secondary facilities within the locality.
- 8.8 The modifications proposed by this application would remove the obligation for the owner of the site to transfer the Primary School Site and would result in the Primary Education Contribution being re-allocated to allow the County Council to apply the contribution towards expanding Secondary School capacity within the vicinity of the development and to form a pedestrian crossing on Arnold Lane to facilitate improved accessibility and connectivity for residents of the Chase development to existing Primary School Facilities.
- 8.9 The County Council, as the Local Education Authority, has provided a Planning Statement as part of the application to vary the Section 106 Agreement. The Planning Statement provides The County Councils justification for the proposed modification as well as the evidence base used in determining the lack of need for additional Primary School Facilities within the locality.
- 8.10 The County Council have demonstrated that, since the original consultation comments were made in 2016 in relation to education requirements in the pupil planning place area which informed the Original Section 106 Agreement, demand for school places across Nottinghamshire has evolved and that the number of pupils currently on-roll at primary schools has gradually reduced largely due to falling birth rates.

9. Primary Education

- 9.1 The Planning Statement goes on to explain in para. 4.3 that the County Council have also supported the delivery of a new one form entry primary school at Land at Teal Close (Rivendell Academy), which had increased the supply of places within the pupil planning area and will prevent pupils that are residents at Teal Close from needing to seek alternative school places within the Carlton Planning Area thus releasing additional capacity to support the Chase Farm development.
- 9.2 The Planning Statement provides data relating to the number of places, either a surplus or deficit, that schools within a certain planning area are expected to have across a 5 year period, see extract below (table 2). In total demand for an additional 105 pupils will be generated as a result of the Chase Farm Development which is accounted for in the forecast capacity. This demand is calculated from the number of dwellings projected to be completed during the 5 year projection period. The total of 105 places needed has already been allocated to Haddon Primary and Nursery School as can be seen in the ‘commitments’ column of Table 2 below. The latest 5 year projection for the Carlton Planning Area shows a capacity surplus of +257 places across 16 different schools. Of these schools, Haddon Primary and Nursery School,

Stanhope Primary School and Phoenix Infant School are the three which The County Council suggest are viable alternatives within suitable distance for the Chase Farm development.

- 9.3 *The County Council, following the deferral of the application by Gedling Borough Councils Planning Committee on the 6th September 2023, have provided further supporting documents for consideration, dated the 13th October 2023 to help inform the decision of the application. The additional statement from NCC reiterates the County Council's previous position that there is a forecast surplus of Primary School Places within the locality and furthermore that, whilst not currently included in the County Council's pupil projection calculations, any additional demand for places generated by new development during or after the pupil projection period could be met by the forecast surplus capacity.*
- 9.4 *The NCC statement provides additional information on forecast housing growth within the locality of the Chase Farm development, taking into account potential development sites including Sherwood E-ACT Academy, Primary School Land at Chase Farm, and Land at Mapperley Plains. These sites are anticipated to generate 201 additional dwellings if brought forward, which would require an additional 42 Primary Pupil Places. In addition to these new development sites, 346 dwellings at Chase Farm are expected to be completed outside of the 5 year projection period, these additional dwellings would result in further demand of 73 more pupil places within the Carlton Planning Area once delivered. Therefore, in total 115 places (42 from new development sites and 73 from dwellings at Chase Farm completed outside the 5 year projection) would need to be provided for within the three most suitable schools that Nottinghamshire County Council refer to. Table 2 below, provided by Nottinghamshire County Council as part of their original supporting information, outlines that there is a forecast surplus of 257 places across the Carlton Planning Area. In relation to the three closest schools to Chase Farm, Haddon Primary and Nursery School, Stanhope Primary and Nursery School and Phoenix Infant and Nursery School, a cumulative surplus of 121 exists.*
- 9.5 *It is therefore accepted, based on the evidence provided, that the three closest schools to Chase Farm, as suggested by Nottinghamshire County Council are capable of meeting the additional demand generated by the Chase Farm development and other potential development sites at Sherwood E-ACT Academy, Primary School Land at Chase Farm, and Land at Mapperley Plains. Haddon Primary and Nursery School, Stanhope Primary School and Phoenix Infant School, have a cumulative surplus of 121 spaces between them, which could accommodate the additional demand arising from the prospective sites (42 pupils) and the residual development at Chase Farm (73 pupils). The County Council has confirmed that, in any case, the level of additional demand (115 places) would not be sufficient to sustain a new one form entry primary school. The -51 deficit presented at Haddon Primary and Nursery School is due to the allocation of the demand from the committed Chase Farm dwellings. This deficit has already been taken into account when calculating the final surplus for the three schools once all remaining additional demand for places have been added.*

Planning area	DfE no.	School	LA / academy	District	Net Capacity	Average 5 Year Projection	Pupils from housing commitments, 5 yrs	Surplus / Deficit Places
Carlton	3018	All Hallows C of E Primary School	LA	GEDLING	150	203	3	-56
Carlton	2699	Burton Joyce Primary School	Academy	GEDLING	315	286	27	+2
Carlton	2227	Carlton Infant Academy	Academy	GEDLING	200	155	7	+38
Carlton	2226	Carlton Junior Academy	Academy	GEDLING	240	220	9	+11
Carlton	2024	Haddon Primary and Nursery School	Academy	GEDLING	210	156	105	-51
Carlton	2033	Netherfield Primary School	Academy	GEDLING	420	344	101	-25
Carlton	2234	Parkdale Primary School	Academy	GEDLING	420	409	7	+4
Carlton	2239	Phoenix Infant and Nursery	LA	GEDLING	180	118	1	+61
Carlton	2236	Porchester Junior School	Academy	GEDLING	180	172	3	+5
Carlton	2238	Priory Junior School	LA	GEDLING	233	225	1	+7
Carlton	2044	Rivendell Primary	Academy	GEDLING	210	71	0	+139
Carlton	3690	Sacred Heart Catholic Academy	Academy	GEDLING	210	212	0	-2
Carlton	3352	St John's C of E Primary School	LA	GEDLING	210	197	0	+13
Carlton	2237	Standhill Infant School	LA	GEDLING	135	131	1	+3
Carlton	2911	Stanhope Primary and Nursery	LA	GEDLING	417	305	1	+111
Carlton	2244	Willow Farm Primary School	Academy	GEDLING	210	211	2	-3
Carlton	1008	PLANNING AREA TOTAL			3940	3415	268	+257

9.6

Table 2. Carlton Primary Planning Area Average Five Year Projection School. Extract from the Planning Statement received on the 7th June 2023.

- 9.7 The comments received in response to the proposal are noted, however, whilst it is accepted that some of the schools that the County Council propose as alternatives would have a commute involving several hills, topography is not a specific consideration within ACS12. The policy outlines that households should have access to services and facilities within 30 minutes travel time and the proposal is therefore deemed to comply with this policy.
- 9.8 The County Council go on to state that to provide an additional Primary School at the Chase Farm development would in fact undermine existing schools within the locality and have a detrimental impact on their future viability.
- 9.9 Taking the above into account, it is considered that the County Council have provided sufficient evidence to demonstrate that a surplus capacity already exists within existing schools which can support the needs of the additional pupils expected from the development at Chase Farm.
- 9.10 It is acknowledged that the catchment primary schools for the site are currently Lambley Primary School and All Hallows Church of England Primary School. The County Council's School Admissions Team has advised that they are currently reviewing the catchment area for Chase Farm and will be working with maintained schools, within walking distance from the development, with a view to consulting on amendments to catchment areas later this year. They further advise that any proposed changes will form part of the statutory consultation for the 2025-2026 admission year. Admissions arrangements (including catchment areas) of academies are the responsibility of the Multi Academy Trust and the County Council have confirmed they will consult with local academies throughout the review.

10. Secondary Education

- 10.1 The recommendation report taken to Planning Committee on the 18th May 2016, in relation to the original application 2015/1376, detailed that the proposed development would be expected to generate an additional 168 secondary school places. At the time it was considered that this additional demand could be mitigated through Gedling Borough Councils CIL receipts and as such a separate obligation seeking a Secondary Education Contribution was not included in the Original Section 106 Agreement.

- 10.2 Secondary School Contributions to Chase Farm are included on the Local Infrastructure Schedule as one of the potential items for funding through the Community Infrastructure Levy (CIL). Until the end of 2022 the strategic element of CIL receipts was allocated to the Gedling Access Road (GAR) / Colliery Way which has now been completed. No decision has yet been made by the Council about the future project prioritisation. This will be addressed through the CIL review which has been temporarily paused, pending the confirmation and subsequent implementation of planning reforms. In addition, the CIL Receipts are heavily dependent upon the commencement of development and as such cannot be accurately forecast.
- 10.3 Nottinghamshire County Councils Developer Contributions Strategy sets out the formula used to calculate developer contributions, see Table 1 - Page 16. The formula sets out that the cost per place for the expansion of Secondary Schools is £26,254 per place. As a result, the proportionate requirement for this development would be £4,410,672 (168 x £26,254). The above figures are based on the development creating an additional 1,050 dwellings as approved in the Outline Application. As previously discussed, Reserved Matters has been approved for up to 940 dwellings. Therefore, the most recent figure, in terms of demand for additional Second School Places created by the development would be 150.4 (based on 16 places per 100 dwellings). This would subsequently result in a proportionate requirement of £3,948,601.60.
- 10.4 Para. 4.1 of the Planning Statement advises that the County Council have identified a shortfall of Secondary School places within the locality and at the Carlton Academy which is the catchment school for the Chase Farm development. Table 3. (see extract below) details the expected projections in relation to secondary school places for the period 2022/23 to 2031/32. Overall, there is an expected deficit of -503 places within the Carlton Planning Area.

DfE No	School Name	District	Planning area	PAN	Net cap	Proj Year	School years							Whole school projection	
							7	8	9	10	11	12	13	TOTAL	surplus / deficit places
	Planning area summary	Gedling	Carlton	470	2903	2022-23	605	547	554	529	522	241	241	3239	-336
	Planning area summary	Gedling	Carlton	470	2903	2023-24	567	613	552	555	531	268	239	3325	-422
	Planning area summary	Gedling	Carlton	470	2903	2024-25	565	573	618	551	555	276	261	3399	-496
	Planning area summary	Gedling	Carlton	470	2903	2025-26	555	569	575	624	550	288	267	3428	-525
	Planning area summary	Gedling	Carlton	470	2903	2026-27	605	561	573	575	630	287	279	3510	-607
	Planning area summary	Gedling	Carlton	470	2903	2027-28	593	610	564	571	573	316	278	3505	-602
	Planning area summary	Gedling	Carlton	470	2903	2028-29	564	598	612	561	570	297	308	3510	-607
	Planning area summary	Gedling	Carlton	470	2903	2029-30	569	568	599	610	561	296	288	3491	-588
	Planning area summary	Gedling	Carlton	470	2903	2030-31	573	570	567	595	607	289	284	3485	-582
	Planning area summary	Gedling	Carlton	470	2903	2031-32	531	572	566	560	589	312	276	3406	-503

Table 3. Carlton Secondary Planning Area projections 2022/23 to 2031/32. Extract from the Planning Statement received on the 7th June 2023.

- 10.5 The County Council have already funded a 300-place expansion of the Carlton Academy, however there would remain a shortfall for secondary school places across the planning area for the ten-year forecast period. The County Council have committed to the funding of an additional 450 place expansion to Carlton-le-Willows Academy which is expected to complete in September 2023 but this again is not expected to meet the demand from 2024-25 onwards. As such, the Redhill Academy Trust are proposing a further 150 place expansion of the Carlton Academy which is dependent on external funding being made available. This project is anticipated to cost approx. £6,000,000.

- 10.6 The County Council advise that if additional resources are not obtained to provide additional funding for the development of the Carlton Academy, then it is expected that residents of the Chase Farm development would have to travel to secondary schools outside of the catchment area, which would involve unsustainable travel patterns. The County Council are therefore applying to modify the terms of the Primary School Contribution, secured through the Original Section 106 Agreement, to enable the funding to be used facilitate the expansion of Carlton Academy.
- 10.7 *Following the 14-day reconsultation, a further statement by the Redhill Academy Trust has been provided which details the existing expansions and required developments at the Carlton Academy or order to meet the Trusts future published admission number (PAN) of 260. The Redhill Trust have stipulated that in order to admit more than the current PAN of 230, significant capital investment must be made to increase capacity at the Carlton Academy.*
- 10.8 *Whilst the objections raised in relation to other school sites proposed by the County Council and the previous comments made by a former MP in relation to a shortfall in secondary places are noted, they are not deemed a material planning consideration in the determination of this application. Similarly, the availability of alternative sources of funding available to the County Council cannot be given weight when determining this application.*

11. Department for Education

- 11.1 *The County Council, following the deferral of the application by Gedling Borough Councils Planning Committee on the 6th September 2023, have provided further supporting documents for consideration, dated the 13th October 2023 to help inform the decision of the application. The additional statement from the NCC reiterates the County Councils previous position that there is a surplus of Primary School Places within the locality and furthermore that, whilst not currently included in the County Councils calculations for available places, any additional demand for places generated by new development in the short-term future could likely be met by the existing surplus.*
- 11.2 *The applicant has also contacted the Department of Education for comments in relation to whether a new school could be approved at the site under the current protocol. The DfE have responded and state the following;- "Local authorities have a statutory duty (section 14 of the Education Act 1996) to ensure there are sufficient school places in their area. Where they identify the need for a new school, section 6A of the Education and Inspections Act 2006, requires them to first seek proposals for a new free school (academy). The final decision does however rest with the Secretary of State (normally delegated to the relevant Regional Director) regarding with whom they will enter into a funding agreement. The Regional Director will therefore consider all of the evidence provided as well as any other relevant matters of which he or she is aware before making a decision regarding the sponsor. In making decisions around the need for a presumption school, LAs need to balance their duty to provide sufficient school places with ensuring there is not an over-supply of places, which could make existing schools unviable".*

12. Other Matters

- 12.1 The Ward Councillor, in their response to the consultation, raised concerns that the current obligations contained within the Original Section 106 Agreement are fundamental to establishing a sense of place and encouraging community cohesion within the development. Whilst these comments are fully understood, the evidence provided by the County Council demonstrates that, at this time, there is not a local need for a new Primary School or additional capacity within the vicinity.
- 12.2 As the Local Education Authority for Gedling Borough Council, it is the County Councils responsibility, under the Education Act 1996, to ensure that sufficient school places for children of all ages is provided within the Borough. The County Council produce projections of pupil demand on an annual basis based on catchment areas which are known as Planning Areas. These projections are used to inform the County Councils decisions as to where and when additional capacity needs to be provided.
- 12.3 The County Council adopted their Developer Contributions Strategy in December 2021. This document provides a framework to secure all necessary infrastructure to support sustainable growth in Nottinghamshire. The Developer Contributions Strategy sets out the County Councils approach to planning obligations secured through Section 106 Agreements and more specifically Education Infrastructure. Section 4, Para. 4.27 of the Developer Contribution Strategy details that “the delivery of a new school will be achieved through the free school presumption process, which aims to appoint a multi-academy trust to run the school. This approach requires the approval of the Regional Schools Commissioner acting on behalf of the Secretary of State.”
- 12.4 The County Council have also confirmed that the decision to commission a new school development is subject to the County Council’s own decision-making process which would be made by its Cabinet Member for Children and Young People and must be carried out in accordance with the County Councils constitution. In light of the new evidence provided, the County Council as Local Education Authority has concluded that a new primary school is not necessary and cannot be justified in this instance.
- 12.5 The proposed amendments include the provision of a new pedestrian crossing across Arnold Lane to improve connectivity and access to education facilities within the locality of the development and a financial contribution to enable these highway works to form part of the education contribution being reallocated. Para. 49 of the Department of Education’s – ‘Securing developer contributions for education (2023)’ outlines that it is possible to seek developer contributions towards the cost of offsite works that are required to deliver a new school or school expansion associated with housing development, such as traffic management measures, school streets, better streets for cycling, walking and people, to promote active travel. As such it is considered that the financial contribution towards the new pedestrian crossing could be considered a contribution towards off-site works required to deliver a school expansion associated with the housing development and within the scope of a developer contribution for education. The application is also deemed to comply with policies ACS14, LPD35, LPD58, and LPD61.
- 12.6 The new signalised crossing is proposed approx. 50m to the north of the junction between Arnold Lane / Linsdale Gardens. This crossing would adjoin a public footpath which has been approved as part of the approved plans for

phase 2 of the Chase Farm Development (application reference. 2021/1294) to provide greater connectivity for residents travelling to Stanhope Primary School. The County Council, in its capacity as the Highways Authority, have been consulted and have raised no objections to the proposals. It is therefore considered that the proposed location of the pedestrian crossing would be acceptable in principle and would improve the connectivity of phase 2 of the development to existing primary school facilities in the locality. The application would therefore be compliant with ACS18 and ACS19.

- 12.7 Having regards to the above, it is considered that the modifications to the Original Section 106 Agreement, as proposed by this application, would continue to serve the purposes of the original obligation by mitigating the impacts of the additional demand on both primary and secondary educational facilities. Primary facilities would benefit through the provision of a new pedestrian crossing, which would improve connectivity from the development to existing primary school facilities. In addition, the re-allocation of the financial contribution would provide a secure means of funding to expand existing Secondary School facilities.

13. Conclusion

- 13.1 It is considered that the County Council, in their capacity as Local Education Authority, have provided sufficient evidence to demonstrate that the development of a new Primary School at the site known as Chase Farm is no longer required. Instead, a deficit in Secondary School places is forecast within the next 10 years. As such the County Council contend that the local need, as prescribed within the local policy framework, is now for additional capacity in relation to Secondary School places.
- 13.2 It is considered that the proposal to expand the Carlton Academy, given this school is within the catchment of the Chase Farm development, would not alter the policy compliant position as set out in the Original Section 106 Agreement with regards to meeting the local needs test.
- 13.3 In light of the proposed modifications to the financial contribution as set out within this report, it is considered that to retain the obligation for the Owner/s to suitably prepare and transfer the Primary School Site to the County Council would serve no useful purpose. The County Council have suitably demonstrated that there is no longer a demand for a new primary school in this location.
- 13.4 Whilst it is accepted that infrastructure, in this case the provision of a new Primary School situated within the centre of the development, helps contribute to a sustainable development and promotes a strong sense of place, the evidence submitted by the County Council provides justification for the proposed amendments and the discharging of the obligations contained within Part 1, Schedule 4 of the Original Section 106 Agreement.
- 13.5 *The additional supporting documents have been noted and do not alter the original officer recommendation that the proposed modifications are acceptable and would still serve a useful purpose equally well in accordance with the terms of the original section 106 agreement.*

- 13.6 It is therefore considered that the proposed modifications and discharge, as noted in the proposal section of this report, are acceptable. There are no other material planning considerations or implications that would arise as a result of this proposed modification and discharge of the relevant planning obligations.
- 13.7 As a result, the application is deemed to comply with policies LPD35, LPD58, and LPD61 of the Local Planning Document; policies A, 12, 14, 18 and 19 of the Aligned Core Strategy and guidance within the NPPF.
- 14. Recommendation:** Subject to the agreement of Nottinghamshire County Council, the Owner and the Developer, to enter into a deed of variation to discharge the obligation for the owner to provide the primary school site, and to modify the terms of the Primary School Contribution to enable it to be re-allocated to permit expenditure on expanding secondary school capacity within the vicinity of the development and towards the pedestrian crossing on Arnold Lane.
- 15. Appendices**
- 14.1 Appendix 1. Nottinghamshire County Council Planning Statement
- 14.2 Appendix 2. NCC Objection Response to Application 2023/0468
- 14.3 *Appendix 3. Nottinghamshire County Council Further Statement Oct 23*
- 14.4 *Appendix 4. Further Statement – Department for Education*
- 14.5 *Appendix 5. Further Statement – Redhill Academy Trust*