

6 March 2026

Thank you for your email to me of 23 February 2026 timed at 15.53 hrs.

**Part 1: Responses to Test Valley Borough Council's replies to objectors.**

First, I confirm that I have read your response to my objections and that I do NOT withdraw my objections to the draft Order.

I now turn to the Council's response to objectors and use their headings;

**CO1**, The original scheme provided by the Council did not involve the stopping up of West Street nor making it a two way street. The Council has subsequently been provided with a further two alternative plans to enable the proposed development, which do not entail the stopping up of part of West Street and making the current one way street a two way street.

**CO3**, the subsequent assertion that the area sought to be stopped up is in fact the minimum necessary to enable the development to be carried out is simply wrong.

**CO4**, paragraph 4, does not accurately represent the views of the objectors, the contention that there would be a major reduction in the area of open space to be provided is not correct as is the claim of conflicts between users. Indeed, the Council's own documentation started from the position that it would be possible to resolve potential conflicts by the design of the development and not simply by segregating land uses.

**CO5**, it is entirely commonplace for developments to be altered as they proceed, whether by way of non-material amendments (determined by the local planning authority to be such) or by way of the submission of revised plans to reflect changed circumstances and the acceptance of any need for additional consultations that might, or might not, be appropriate. Originally, the development was designed with one way traffic in West Street, it appears that only the residents of Chantry Lodge and Portland Grove, in a meeting at Chantry Lodge on 19th September 2024, were advised of the change of plan and no public consultation appears to have been carried out in relation to this proposed change.

**CO8**, I am entirely aware of the situation whereby the draft stopping up order for Western Avenue was re-advertised in the correct local newspaper.

**CO10**, harm to the environment, the whole scheme does not produce any reduction in vehicle movements in the locality, it displaces them so that they are moved nearer to people's abodes, therefore local residents environment would inevitably be harmed. The doubling of bus movements, doubling of movements of delivery vehicles to Chantry Centre shops, all Lidl deliveries and all Lidl shoppers having to traverse West Street twice is a vast increase in vehicle movements, this will only increase noise and air

pollution and the Nitrate pollution levels already exceed WHO recommended maximum levels.

**CO13**, in paragraph 2 of the Council's response, the statement is made that the Transport Assessment considered the potential future growth.... "based on the full implementation of the masterplan". This may be the case but the scale of future growth was not known at the time of the making to the transport assessment so its conclusions are outdated and cannot be relied on. I also observe that the 'Andover Town Centre Masterplan Final Report' is silent on the subject of stopping up West Street.

**CO16 and 17**, pavement widths, the Council, in respect of two earlier planning applications relating to Chantry Lodge and Andover Leisure Centre, required the widening of pavement in the interests of pedestrian safety. To now state that the proposed reductions in pavement widths meet minimum standards, whilst in earlier permissions required above minimum standards is disingenuous.

**CO18**, in particular, paragraph 3. A visual inspection and an inspection of the local map shows that the pavement outside Chantry Lodge lies on the most direct route between the main sixth form college buildings and the town centre and bus station. To suggest that college students would deliberately go out of their way to make use of the proposed riverside park on their way into town is not credible.

I remain, of course, willing to discuss any aspect of what I have written in relation to this application by the Council.

I attach below, my views on the subject of the holding of an inquiry for the Secretary of State's consideration.

## **Part 2: The holding of an inquiry.**

I am a retired local government lawyer with experience of regeneration, planning, highways and related areas of the law.

Where objections to the draft Order are made and not withdrawn, Ss 247(1) and 252(5) of the Town and Country Planning Act 1990 are the relevant provisions.

S.247(1) reads, as far as is relevant, as follows;

*The Secretary of State may by order authorise the stopping up of any highway if he is satisfied that it is **necessary** in order to enable development to be carried out in accordance with planning permission.*

S.252(5) reads, as far as is relevant, as follows;

*If the Secretary of State is proposing to make an Order the Secretary of State is satisfied in the **special circumstances** of the case the holding of an inquiry is unnecessary he may dispense with the inquiry.*

From this it is clear that the intention of Parliament was that the Secretary of State is required to undertake the decision making process thus;

a) to decide whether the stopping up order is in fact necessary to enable the approved development to be carried out,

b) if it is not in fact necessary, the order should not be made at all,

c) in all other circumstances an inquiry should be held unless the Secretary of State considers that special circumstances apply in the particular case.

It is for the Secretary of State to determine whether or not the stopping up order (in its draft form) is necessary to enable the approved development to be carried out. The local planning authority may consider that it is necessary, but that issue is to be determined by the Secretary of State based on the evidence provided to them in the form of objections and representations made and in the event of doubt, a public inquiry be held to resolve any such doubts.

If there is any uncertainty on the point of the necessity for the Stopping Up Order, in its draft form, the obvious choice is for the Secretary of State to order an inquiry to be held. This course of action has the additional advantage that the local planning authority can seek to demonstrate either, that its view of the necessity for the order in its current form is correct or, that an order in a modified form may achieve the objective of allowing the proposed development to proceed.

My view is that the stopping up of West Street is not in fact necessary to enable the approved development to be carried out and secondly, that no special circumstances apply to the draft Order and a public local inquiry should be held.

As I have raised a number of issues concerning the interpretation of statute and how it relates to the permitted development I suggest that any enquiry that is ordered should be by way of a hearing rather than by written representations.

In *Network Rail v Secretary of State* 2017 [EWHC2259 (Admin)] the court made it clear that the requirement was, first to apply a test of necessity and that necessity was to be considered in the circumstances of the case and whether the terms of the planning permission were such that the Order was necessary to enable that development to be carried out.

In this instance, the description of the development in the formal decision notice dated 3 October 2025 is as follows:

**‘Closure/stopping up and removal of southbound carriageway of Western Avenue gyratory and associated changes to the highway network, including West Street and Waterloo Court .....?’**

Nowhere is the stopping up of West Street mentioned in the description of the development, since the description of development is the starting point and its accuracy is paramount (see *Barton Park Estates v Secretary of State* 2022 (EWCA Civ 833)); it is clear that the developer, in this case the local planning authority, initially did not regard the stopping up of West Street as necessary. The change to stop up West Street and make it two way should have been the subject of a full public consultation and re-advertisement of the proposed development and not just an informal meeting on 19 September 2024 just with the residents of Chantry Lodge and Portland Grove.

In relation to Western Avenue, the object of the planning permission is the creation of a park for pedestrian use and a cycle route. The later introduced change from one way traffic to two way traffic and the stopping up of West Street would increase conflicts between vehicles and pedestrians.