



The Planning Inspectorate

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John and Elspeth Gass
Keeper's Cottage
2A Orchard Way
Breachwood Green
Hitchin
SG4 8NT

Your Ref:

Our Ref: PUR/3342127

Date: 10 December 2024

BY EMAIL ONLY

Dear Mr and Mrs Gass

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 – SECTIONS 32 TO 36

PURCHASE NOTICE SERVED BY JOHN AND ELSPETH GASS

LAND AT KEEPER'S COTTAGE, 2A ORCHARD WAY, BREACHWOOD GREEN, HITCHIN, HERTFORDSHIRE SG4 8NT

1. I am directed by the Secretary of State for Housing, Communities and Local Government ("the SoS") to refer to the purchase notice ("PN") that you served on North Hertfordshire District Council ("the Council") on 1 January 2024 in respect of your interest in the above-mentioned land.
2. On the information then available, the Secretary of State gave notice on 21 May 2024 of their proposal not to confirm the PN for reasons set out in that letter. The Secretary of State gave you and the Council an opportunity to be heard by an Inspector. Following your request to be heard an Inspector, Tom Gilbert-Wooldridge, held a hearing on 1 October 2024.

INSPECTOR'S HEARING REPORT

3. A copy of the Inspector's hearing report is enclosed and forms part of this decision letter.

REASONS FOR THE DECISION

4. Where a purchase notice is served following a decision on a planning application the Secretary of State must first consider whether the relevant conditions¹ specified in section 137(3) of the Town and Country Planning Act 1990 are satisfied. If those conditions are met section 141(1) requires the Secretary of State to confirm the purchase notice unless he takes the view that one of certain other courses specified in subsections (2) or (3) of section 141 would be appropriate.
5. The Inspector's conclusions and recommendation on the purchase notice have been considered along with all the available evidence.

¹ As set out in the Secretary of State's proposed decision dated 21 May 2024.
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CONCLUSIONS

6. On 18 December 2023, the Council refused to grant listed building consent to replace 16no. single-glazed timber-framed windows with white uPVC double-glazed windows (application 23/02418/LBC). The Council declined to purchase the site for the reasons set out in its response notice of 25 March 2024. In his report the Inspector observed that noise insulation for the property's windows would mitigate the effects of aircraft and ensure that the property and land can be enjoyed and used for residential purposes. It would be difficult to achieve suitable insulation without listed building consent. Therefore, in their existing state, it can be argued that the building and land are incapable of reasonable beneficial use ("RBU") and cannot be rendered capable of such use by the carrying out of works for which listed building consent has been granted or undertaken to be granted. However, before confirming the PN, the Inspector needed to consider whether there is a more appropriate course of action that the SoS may take instead of confirming the PN.
7. If the SoS considers it expedient to do so, she may, instead of confirming the PN, grant listed building consent for the replacement windows proposal rejected under application 23/02418/LBC. However, the Inspector recommended that the proposal should not be granted listed building consent. The Inspector then concluded, for the reasons set out in his report, that instead of confirming the PN, the land could be rendered capable of RBU within a reasonable time by the carrying out of other works for which listed building consent ought to be granted. The Inspector therefore recommended that the Council should be directed to grant listed building consent, if an application is made, for slim profile timber double glazed windows that would render the land capable of RBU.
8. Having considered the available evidence the SoS agrees with the conclusions in the Inspector's report and accepts his recommendation.

FORMAL DECISION

9. The Secretary of State for Housing, Communities and Local Government refuses to confirm the purchase notice. Instead of confirming the purchase notice, the Secretary of State, in exercise of her powers under section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), and all other powers enabling her in that behalf, HEREBY DIRECTS that North Hertfordshire District Council shall grant listed building consent, if an application is made, for the replacement of 16no. single-glazed timber-framed windows with slim profile timber double glazed windows at Keeper's Cottage, 2A Orchard Way, Breachwood Green, Hitchin SG4 8NT. If such an application is made it shall be submitted to the Council within 2 months from the date of this decision.

RIGHT OF CHALLENGE AGAINST THE DECISION

10. The enclosed leaflet sets out the right of challenge to the High Court against this decision.
11. A copy of this decision, along with the Inspector's report, has been sent to North Hertfordshire District Council.

Yours sincerely

Richard Holland

Authorised by the Secretary of State to sign in that behalf