

**Reference No:** 5/25/0049**Valid Date:** 07/03/2025**End of Stat Period Date:** 01/05/2025**Case Officer:** George Kent**Report Written Date:** 07/05/2025**Applicant:** Ms E Hathorn**Proposal:** Part single, part two storey rear extension with relocated AC units**Site Address:** 14 Spencer Street St Albans Hertfordshire**Ward:** St Peters**Parish:** N/A**Constraints:**

Source Protection Zones

Locally Listed Building

Conservation Area

Area of Special Control for Advertisements

Archaeology Recording Areas

**BACKGROUND**

**Site / Surroundings:** The application site is a pair of two-storey terraced buildings with the appearance of dwellings on the northeast side of Spencer Street. The building is Locally Listed (with Nos. 8 – 24) and is in the St. Albans Conservation Area 4a (The Commercial Centre).

**Proposal:** Part single, part two storey rear extension with relocated AC units

**Relevant Planning History:**

**5/1998/0320** - Single storey rear extension (Conditional Permission 27/05/1998)

**5/1997/1602** - Change of use from A1 (retail) to D1 (health services consulting room) (Conditional Permission 20/10/1997)

**5/1997/0495** - Change of use from A1 (retail) to A2 (financial and professional services) (Conditional Permission 12/05/1997)

**5/1979/9021** - Illuminated existing sign (Conditional Permission 06/02/1980)

**PLANNING POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

The development plan is the St. Albans District Local Plan Review 1994.

The Local Plan was submitted, on 29th November 2024, to the Planning Inspectorate for independent examination which will be carried out on behalf of the Secretary of State for the Ministry of Housing, Communities and Local Government. This is in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The Local Plan generally has limited weight in decision making at this time. The emerging policies have been considered but have limited weight in relation to the assessment of this application.

The National Planning Policy Framework is also a material consideration.

Paragraph 11 of the NPPF states that there is a presumption in favour of sustainable development.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraphs 231 and 232 of the NPPF reads as follows:

The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this replacement Framework has made.

However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The degree of consistency of the Local Plan policies with the framework will be referenced within the discussion section of the report where relevant.

#### National Planning Policy Framework

St. Albans District Local Plan Review 1994:

POLICY 9 Non-Residential Uses Within Residential Areas

POLICY 39 Parking Standards, General Requirements

POLICY 48 Surgeries and Clinics Parking Standards

POLICY 69 General Design and Layout

POLICY 72 Extensions in Residential Areas

POLICY 85 Development in Conservation Areas

POLICY 87 Locally Listed Buildings

Supplementary Planning Guidance/Documents:

St. Albans Conservation Area Character Statement – 4a (The Commercial Centre)

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## REPRESENTATIONS

**Publicity:** 10/04/2025

**Expiry Date:** 03/05/2025

### Notifications:

Adjoining Occupiers

Neighbour letters were sent to four addresses in accordance with the Council's published Statement of Community Involvement.

At the time of writing this report, two objections have been received.

The representations raise some or all of the following matters:

- Lack of parking for an application to turn the commercial building into residential properties;
- Resident parking and EV charge points should be included;
- Loss of sunlight;
- 45-degree line has been drawn incorrectly;
- Single storey extension has a depth of approx. 5m which exceeds the 3m limit specified in local policy;
- Proposal would have a greater impact than existing situation;
- Overbearing impact;
- Extension would extend almost the full depth of the adjoining garden;
- Masks original rear elevation;
- Detracts from the value of this Locally Listed building (a non-designated heritage asset);
- Doubling of floor space.

No further representations had been received at the time of writing this report.

**Town / Parish Council:** N/A

### Consultations:

Archaeology – no objection, the level of disturbance to archaeology is likely to be limited. No archaeological recommendations.

Design and Conservation – object. Host buildings are modest in scale, extensions would extend more than two thirds of the depth of the host buildings and appear as bulky additions dominating the rear of the building, roof form cuts into first floor rear window, unbalancing the rear elevation, less than substantial harm to this part of the Conservation Area, no harm to the setting of Listed Buildings, balancing tests in Paragraphs 215 and 216 of the NPPF should be carried out. No objection to relocation of air conditioning units.

Environmental Compliance – no comment.

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## DISCUSSION

### Main Issues:

The main issues for consideration are:

- Character and appearance and impact on the Conservation Area and Locally Listed building;
- Impact on neighbouring amenity;

- Parking provision.

### **Character and Appearance**

Within a Conservation Area, the Council has a duty to pay special attention to the desirability of preserving or enhancing the character and appearance of that area, in accordance with Section 72 of the Listed Buildings and Conservation Areas Act (1990). Chapter 16 of the National Planning Policy Framework (NPPF) sets out guidance relating to conserving and enhancing the historic environment. It notes that local authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets; the positive contribution that conservation of heritage assets can make to sustainable communities; and the desirability of new development making a positive contribution to the local character and distinctiveness.

When considering the impact of proposed development on the significance of a designated heritage asset, such as a Conservation Area, the NPPF notes that great weight should be given to asset's conservation; the more important the asset, the greater the weight should be. With regards to non-designated heritage assets, such as locally listed buildings, the NPPF guides that local authorities should make a balanced judgement, having regard to the scale of any harm or loss and the significance of the heritage asset.

Policies 69, 85 and 87 of the St. Albans District Local Plan Review 1994 are consistent with the aims of the NPPF and therefore weight should be attached to the provision of these policies.

The building is located within the designated heritage asset of the St. Albans Conservation Area. The NPPF supports the conservation of designated heritage assets and the need to consider the impact of proposals on the significance of non-designated heritage assets.

Policy 85 of the Local Plan sets out the approach for development in conservation areas stating that extensions shall "*normally be designed to leave the original building form predominant and the form of the original roof shall normally be extended or repeated*".

Planning permission is sought to construct a part single, part two storey rear extension on the building. The building has been previously extended by way of single storey rear extensions which appear to have been added since its use as a dentist was approved in 1997. The existing extensions are piecemeal in appearance with differing roof forms and do not contribute positively to this Locally Listed building. The proposed extensions, while acknowledged as being large in size, are considered to be of a design that is more sympathetic to the Locally Listed building with the inclusion of traditional features such as white painted timber sash windows in a six over six configuration, white painted timber doors and lintel detailing noted. The roofs would be constructed of slate tile to match existing and the proposed bricks are also indicated as matching which is considered to accord with a high standard of design. Comments received which raise concern at the design of the extensions are noted, however the design of the extensions are not considered to cause significant harm to the Locally Listed building or St. Albans Conservation Area when noting their limited visibility from public viewpoint and appearance in the context of the large flat-roofed commercial building at No. 9 St Peters Street to the rear.

In light of the above, the proposed development would preserve the character and appearance of the building, the street scene and this part of the St. Albans Conservation Area. The proposed development would therefore comply with the provisions of Policies 85 (Development in Conservation Areas) and 87 (Locally Listed Buildings) of the St. Albans District Local Plan Review 1994 and the National Planning Policy Framework 2024.

### **Impact on Neighbouring Amenity – Extension**

Policy 72(v) of the St. Albans Local Plan Review 1994 seeks that proposed extensions in residential areas do not cause harm to the amenities of neighbouring properties principally with regards to loss of daylight / sunlight, outlook, or privacy.

#### No. 10 Spencer Street

The application site shares a party boundary with No. 10 to the southeast. The dwelling at this address is noted as having been enlarged by way of an 'L-shaped' single storey rear extension and is sited at a slightly higher level owing to the topography of the area.

The proposed extensions would protrude beyond the existing extension at No. 10 by a modest amount with the first floor element set off the party boundary by an appropriate amount so as to avoid an overbearing impact.

The proposed extensions do not appear to intrude into the 45-degree visibility zones of rear-facing openings at No. 10 on both plan and elevation forms. A planning history search of this address has revealed 5/2010/3074 which granted permission for a change of use from Class B1 (offices) to Class C3 (residential). The side-facing openings which were noted within the extension at No. 10 during the site visit appear to be different when compared to the approved plans of 5/2010/3074 (three-pained bi-fold doors when compared to a window and door under 5/2010/3074). The proposed first floor element appears to intrude into the 25-degree visibility zone of these side-facing bi-fold doors, albeit it would not be positioned alongside its entire extent. Furthermore, the internal layout of No. 10 indicates that there are other unaffected openings serving this room. In light of the above, the proposal is considered unlikely to result in a significant loss of light to No. 10.

#### No. 16 Spencer Street

The application site shares a party boundary with No. 16 to the northwest.

The host building has an existing single storey rear extension positioned close to the party boundary with No. 16 which measures c. 4m in depth and c. 2.7m in eaves height owing to the parapet.

The proposal seeks to increase the depth of this element to c. 4.4m, with a slight decrease in eaves height sought to c. 2.6m as per the submitted plans.

A first floor element would also be added, also at a depth of c. 4.4m, and this would be set off the party boundary with No. 16 by a distance of c. 1.9m. The rear garden of this address and others within the vicinity were noted as being limited in size at the time of site visit. When noting the first floor element that is sought, cumulatively, the scale and bulk of the extensions are considered to be disproportionate in the context of the neighbouring rear garden and would result in an oppressive and dominating presence which reduces the sense of openness and would adversely affect the neighbour's enjoyment of their outdoor space.

Objection has been received which claims the proposal to result in a loss of sunlight to the rear garden of No. 16. The positioning of the proposal would mean that additional shadows may be cast over the rear garden of this neighbour during the morning on a summer's day, but this does not raise significant concern as the majority of direct sunlight is received from the south and west when noting the sun's path. The impact of the extensions on sunlight levels would be limited and not considered harmful.

A planning history search for this address revealed 5/2015/2236 which granted permission for a change of use of a restaurant (Class A3) to Class C3 (residential) to create five dwellings. A site visit was conducted at No. 16 Spencer Street, during which the ground floor rear openings were noted as differing in form when compared to the approved plans of 5/2015/2236 (a set of French doors with two attached windows as opposed to a kitchen door and window within 5/2015/2236).

Objection has been received which claims the proposal to result in a harmful loss of light to windows. Officers have conducted the 45-degree assessment as per BRE guidance in relation to the neighbouring windows to evaluate the potential impact on light. The assessment confirms that the proposed extensions would not breach the 45-degree line of the nearest habitable room windows. As such, it is concluded that the development is unlikely to result in an unacceptable loss of light to this address.

A side-facing window at first floor level is noted as present within the extension. In the interests of preserving privacy, it would be considered necessary to attach a condition requiring it to be obscure glazed and non-opening below a height of 1.7m from the internal finished floor level in the event of an approval. This room is indicated as a WC within the submitted plans and the use of the building is commercial, such that no harm is considered to arise from such a condition.

### **Impact on Neighbouring Amenity – Air Conditioning Units**

A total of six existing air conditioning units are proposed to be relocated to the rear garden of the application site. The application is accompanied by a Noise Impact Assessment which recommends mounting the units on suitable isolation systems to mitigate vibration and provides examples of these in Appendix D. The Assessment concludes that “*noise emissions from the plant would not have an adverse impact on the nearest residential receivers*”.

The Assessment identifies the nearest noise sensitive receptor to the proposed relocated air conditioning units to be a first floor residential window at No. 16 Spencer Street and a planning history search indicates this window to serve a non-habitable room (5/2015/2236). However, the Assessment fails to refer to No. 10 Spencer Street which features rear-facing windows serving habitable rooms as per 5/2010/3074 and although it appears to be sited a similar distance from the air conditioning units, there is a difference in the levels and boundary treatment.

In light of the above, it has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed development would not lead to unacceptable levels of noise to the detriment of neighbouring amenity. The proposal is therefore contrary to Policy 9 (Non-Residential Uses Within Residential Areas) and Policy 72 (Extensions in Residential Areas) of the St. Albans District Local Plan Review 1994 and the National Planning Policy Framework 2024.

### **Parking Provision**

Policy 39 (Parking Standards, General Requirements) of the St. Albans District Local Plan Review 1994 relates to parking standards. It states that development proposals should provide adequate off-street parking in accordance with the Council’s adopted standards. The parking requirements for dentists (consulting rooms) are set out within Policy 48 (Surgeries and Clinics Parking Standards) of the St. Albans District Local Plan Review 1994, which states that 3 spaces are required per room.

There is no existing allocated car parking provision for the building which currently includes 5 consulting rooms and would therefore require fifteen parking spaces as per Policy 48. The proposal results in an increase in consulting rooms to seven and, as such, an increase in required car parking provision to 21 spaces.

The development would result in an increased shortfall in parking provision. Despite this, Revised Parking Policies and Standards, January 2002 allows for schemes below the required parking standard. Nationally, policies detailed in Paragraph 112 of the NPPF outline that the accessibility of a development, availability of public transport and local car ownership levels should be taken into account in considering local parking standards.

The application site is located within central St. Albans, a highly sustainable area with easy access to the bus network, other local amenities and several car parks including Christopher Place, Drovers Way, Adelaide Street and Russell Avenue.

Therefore, the proposal is in accordance with the Revised Parking Policies and Standards, January 2002, the aims of Policies 39 and Policy 48 of the St. Albans District Local Plan Review 1994 and the National Planning Policy Framework 2024.

### **Biodiversity Net Gain**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply.

### **Other Matters**

Objection has been received which states the proposal is for a change of use of the premises to residential. The application is for the extension of an existing dental surgery and no change of use is sought. It is considered neither reasonable nor achievable to request the provision of additional parking and EV charge points.

### **Planning Balance**

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development and states that for decision-taking this means “*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination*”.

The application site is within a sustainable location and the proposal is considered to have an acceptable impact on character and appearance and parking provision. While it is acknowledged that the proposed development would provide benefits by supporting the growth and expansion of a business, these benefits must be weighed against the potential harm caused in-line with the NPPF. In this case, on balance, the harm identified within the above discussion to neighbouring occupiers is considered to outweigh these benefits. The proposal should be recommended for refusal on that basis.

**Comment on Town / Parish Council / District Councillor / Concern(s):** N/A

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### **REASONS FOR REFUSAL**

#### **To include justification for recommendation and relevant development plan policies**

By reason of its depth, height and proximity to the boundary, the proposed part single, part two storey rear extension would lead to an unacceptable overbearing impact upon the occupiers of the adjoining dwelling at No. 16 Spencer Street to the detriment of their residential amenity. The proposal is therefore contrary to Policy 69 (General Design and Layout) and Policy 72 (Extensions in Residential Areas) of the St. Albans District Local Plan Review 1994 and the National Planning Policy Framework 2024.

It has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed development would not lead to unacceptable levels of noise to the detriment of neighbouring amenity. The proposal is therefore contrary to Policy 9 (Non-Residential Uses Within Residential Areas) and Policy 72 (Extensions in Residential Areas) of the St. Albans District Local Plan Review 1994 and the National Planning Policy Framework 2024.

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## **EQUALITY AND HUMAN RIGHTS CONSIDERATIONS**

Consideration has been given to Articles 1, 6, 8, 9, 10 and 14 of the First Protocol of the European Convention on Human Rights. It is not considered that the decision would result in a violation of any person's rights under the Convention.

When considering proposals placed before the Council as Local Planning Authority, it is important that it is fully aware of and has themselves rigorously considered the equalities implications of the decision that they are taking. Therefore, rigorous consideration has been undertaken by the Council as the Local Planning Authority to ensure that proper appreciation of any potential impact of the proposed development on the Council's obligations under the Public Sector Equalities Duty.

The Equalities Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share protected characteristics under the Equality Act and persons who do not share it. The protected characteristics under the Equality Act are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex and sexual orientation.

It is considered that the decision has had regard to this duty. The development would not conflict with either St Albans City and District Council's Equality Policy and would support the Council in meeting its statutory equality responsibilities.

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**RECOMMENDATION:** Refused      **Decision Code:** R1

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### **Reasons**

**By reason of its depth, height and proximity to the boundary, the proposed part single, part two storey rear extension would lead to an unacceptable overbearing impact upon the occupiers of the adjoining dwelling at No. 16 Spencer Street to the detriment of their residential amenity. The proposal is therefore contrary to Policy 69 (General Design and Layout) and Policy 72 (Extensions in Residential Areas) of the St. Albans District Local Plan Review 1994 and the National Planning Policy Framework 2024.**

**It has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed development would not lead to unacceptable levels of noise to the detriment of neighbouring amenity. The proposal is therefore contrary to Policy 9 (Non-Residential Uses Within Residential Areas) and Policy 72 (Extensions in Residential Areas) of the St. Albans District Local Plan Review 1994 and the National Planning Policy Framework 2024.**

### **Informative(s):**

1. This determination was based on the following drawings and information: Application Form, Design and Access Statement, Noise Impact Assessment, DNG Nos. P1710/13/C, S1710/02, P1710/12/B, S1710/01, P1710/11/A, S1710/03 and S1710/10/A received 31/01/2025.
2. The Local Planning Authority has been positive and proactive in its consideration of

