

Planning Committee

02 February 2022



Application No.	21/01472/FUL		
Site Address	Land To Rear of Dwellings in Park Road, Stanwell, currently occupied by disused garages		
Applicant	Ms Sandy Scott of Icenii on behalf SSE Energy Solutions		
Proposal	Demolition of existing lock-up garages and installation of electric vehicle charging bays serviced by ultra-rapid charge points, together with associated infrastructure and works.		
Officer	Kelly Walker		
Ward	Stanwell North		
Call in details	<p>This application is being referred to the Planning Committee under the terms of Reference for Planning Committee, paragraph 2: Where the Planning Development Manager decides, after consultation with the Chairman of the Planning Committee, that an application should be submitted to the Planning Committee on planning grounds.</p> <p>In addition, it was called in by Cllr Doran due to concerns raised about the impact on the amenity of neighbouring residential properties and highway issues. This only applied if the application was being recommended for approval which it is not.</p>		
Application Dates	Valid: 18.09.21	Expiry: 28.10.21	Target: Extension of time agreed
Executive Summary	<p>The application site is located on an existing disused garage site with existing accesses from both Park Road to the west and Selwood Close to the east within Stanwell</p> <p>The application is for the demolition of the existing garages at the site and the installation of an Electric Vehicle Charging site comprising a number of charging bays. The existing vehicular access and egress from Park Road and Selwood Close would be utilised using a one-way system, with Park Road as the access into the site and Selwood Close the exit. It will provide 24 rapid electric vehicle (EV) charging bays, with EV charging dispenser units. In addition, the site would include a small substation, toilet and vending machine. A close boarded fence would provide the boundary to the site. The site would be accessible from 07.00 until 22.00 seven days a week.</p> <p>The proposal is considered to be acceptable in regard to its design and appearance. However the proposals are thought to be for a commercial use in a residential area which will have a negative impact on the amenity of neighbouring residential properties. The proposal will result in an intensification of the use of the site and the noise and disturbance</p>		

	caused by the use and activity of the vehicles which would be detrimental to the residential amenity. In addition, the County Highway Authority (CHA) has raised an objection on the intensification of the use of the site causing a highway safety issue. As such, the proposal is considered to be unacceptable.
Recommended Decisions	The application is recommended for refusal due to the impact on the amenity of neighbouring residential properties and highway impacts.

MAIN REPORT

1. Development Plan

1.1 The following policies in the Council's Core Strategy and Policies DPD 2009 are considered relevant to this proposal:

- SP6 (Maintaining and Improving the Environment)
- EN1 (Design of New Development)
- EN8 (Protecting and Improving the Landscape and Biodiversity)
- EN11 (Development and Noise)
- EN15 (Development on Land Affected by Contamination)
- SP7 (Climate Change and Transport)
- CC2 (Sustainable Travel)
- CC3 (Parking Provision)

1.2 The advice contained within the National Planning Policy Framework (NPPF) 2021 is also relevant.

2. Planning History

Ref. No.	Proposal	Decision and Date
P265/12	Erecting Lock-up Garages.	Grant 25.02.1964

3. Description of Current Proposal

3.1 The application site comprises an existing disused garage site with existing accesses from both Park Road to the west and Selwood Close to the east. The site is adjoined by a number of residential properties (2 storey, semi-detached maisonettes) located to the west and north along Park Road and to the east along Selwood Close. However, there is an area of open land with some trees and shrubs between the application site and the rear of the properties directly to the north. The access roads run alongside the side of

dwellings along these roads, namely: 103/105 and 105/107 Park Road and 11/12 and 13/14 Selwood Close. To the south is a public footpath and Staines Reservoir beyond. The garage block contains 32 garages, within 3 blocks. One garage block is located along the southern boundary of the site, one to the north and another smaller block to the north-west, backing onto the rear gardens of properties on Park Road. The applicant notes only 2 of the garages are in use, with the remaining garages being vacant and in disrepair. It is understood that they have not been used for vehicle parking in quite some time, given their size and the fact that it has been advised that they are not owned by local residents.

- 3.2 The site is located in the urban area, within the Heathrow safeguarding heights and noise contours area. The site is also located adjacent to Staines Moor which is a Site of Special Scientific Interest (SSSI).
- 3.3 The application is for the demolition of the existing garages at the site and the installation of an Electric Vehicle Charging site. The existing vehicular access and egress from Park Road and Selwood Close would be utilised, with a one-way system, with Park Road as the access into the site and Selwood Close the exit. It will provide 24 no. rapid electric vehicle (EV) charging bays, with EV charging dispenser units. In addition, the site would include a small substation, toilet and vending machine. A close boarded fence would provide the boundary to the site. The site would be accessible from 07.00 until 22.00 seven days a week.
- 3.4 Each EV dispenser unit will serve 2 vehicles, so 12 are proposed in total. They will be self service and accessed directly by the customer with a lead plugging into the electric vehicle. The dispenser units will use the latest rapid charging technology with 100-150KW for one car or 75 KW for 2 cars using the unit simultaneously. Therefore, a typical charge time will be between 10 and 30 minutes depending on various elements, including the vehicle battery capacity and starting charge.
- 3.5 The applicant notes that users will use a phone 'App' to identify the site and to see if there are any available charging points/spaces before they choose to visit the site. The applicant has also provided details with the application about how the site would be managed, including security, lighting and CCTV, along with a noise report.
- 3.6 The proposed indicative site layout and plans are provided as an Appendix.

4 Consultations

- 4.1 The following table shows those bodies consulted and their response.

Consultee	Comment
County Highway Authority	Raises an objection on highway safety
Heathrow Safeguarding	No objection
Crime Prevention Officer	No objection
Tree Officer	No objection

Environmental Health Officer (Contamination)	No objection recommends condition
Environmental Health Officer (Noise)	No objection recommends condition

5. Public Consultation

5.1 A total of 28 properties were notified of the planning application. The Local Planning Authority has received 14 letters of objection. . In addition, a petition objecting to the application, with 30 signatures, was received. Some of the letters received did acknowledge the merits of EV. The following issues were raised:

- Not the right location in a residential area.
- Traffic movements
- Management of the site/security/anti-social behaviour
- Impact on amenity of residential properties
- Noise and disturbance
- Impacts of lighting and light pollution
- Parking issues
- Little benefit to local community
- Highway safety
- Trees/ecology/bats

6. Planning Issues

- Principle of the development
- Design and appearance
- Highway issues
- Impact on amenity of neighbouring properties
- Trees/Ecology

7. Planning Considerations

Principle of the development

7.1 The Government has introduced a number of policies and initiatives aimed at cutting exposure to air pollutants, improving local air quality and reducing greenhouse gas emissions. A key part of this is cleaner road transport and the move to zero emission vehicles.

7.2 In 2018, the Government set out the following aims in 'The Road to Zero' (HM Government, July 2018):

- At least 50% of new car sales to be ultra-low emission by 2030.
- All new cars and vans to be effectively zero emission by 2040.

- Almost every car and van to be zero emission by 2050

7.3 In August 2020, the Government announced plans to accelerate the phasing-out of petrol and diesel cars. This will involve: -

- Sales of new petrol and diesel cars and vans will be phased out by 2030
- New cars and vans be fully zero emission at the tailpipe from 2035
- Between 2030 and 2035, new cars and vans can be sold if they have the capability to drive a significant distance with zero emissions (for example, plugin hybrids or full hybrids).

7.4 To enable this to be achieved, there will be a need to develop an electric vehicle infrastructure network. The Government has set out that this will need to include: -

- Charging points that are easily accessed across the UK, including at motorway service areas and large fuel retailers
- Uniform standards for charging points
- Ensuring charging points are provided for all new homes
- Providing on-street charging points
- Ensuring local planning policies require developments to include facilities for the charging of electric vehicles (via the National Planning Policy Framework).

7.5 The Automated and Electric Vehicles Act 2018 incorporates legislation in respect to some of the above measures and the requirement for the provision of facilities in new development for the charging of electric vehicles was set out in the former National Planning Policy Framework.

7.6 Paragraph 107 of the National Planning Policy Framework (NPPF) (2021) has been updated and now states: -

'If setting local parking standards for residential and non-residential development, policies should take into account:

- a) the accessibility of the development;*
- b) the type, mix and use of development;*
- c) the availability of and opportunities for public transport;*
- d) local car ownership levels; and*
- e) the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.'*

7.7 The Department for Transport 2021 Decarbonising Transport (A better Greener Britain) calls for local planning authorities make bold decisions to influence how people travel and take local action to make best use of space to make sure recharging infrastructure meets local need.

7.8 Surrey County Council (SCC) has a Climate Change Strategy (CCS) 2020 which sets out the strategy for achieving net zero carbon emissions by 2050. This is through promoting cleaner safer and greener communities where people and organisations embrace their environmental responsibilities. It also sets of a number of strategic policies and includes plans to develop a county wide EV strategy to provide a network of key location charging points, spanning the 12 local authorities. In addition, Spelthorne Borough Council

(SBC) have a Sustainability Strategy (2014) which notes that the goal is to reduce energy use, thereby reducing both energy costs and the Greenhouse Gas (GHG) emissions that energy production contributes to climate change. This is now being further developed by the SBC Climate Change working party.

- 7.9 The applicant has included information in the submission in relation to demand for EV vehicles. It notes that:

'The number of EVs on UK roads has been increasing year on year and EV models are becoming more available, as charging infrastructure improves and the costs of EVs decrease, market analysts are forecasting that more people will purchase EVs over petrol and diesel vehicles'.

The applicant states that the Climate Change Council (CCC) commissioned research in 2018 to assess future demand for Britain's EV public charging network. Based on accounting for 60% of new car and van sales by 2030 overall, nearly 29,000 charging points are needed across Great Britain by 2030.

- 7.10 The applicant lists a number of benefits to Spelthorne Borough Council (SBC) of delivering the critical infrastructure for EV as follows:-

- reduced noise and air pollution, health benefits (reduction in CO2 emissions)
- convenient sites increase uptake, local charging
- proposal is for fast chargers, faster than most standard chargers
- EV cars do not pay London's Congestion Charge
- likely to be a consideration to future home buyers, increase property values
- contribute to delivery of SBC sustainability strategy and carbon management plan
- help SCC meet their CCS

The applicant notes that EV charging can be provided on an individual home by home basis but needs to be delivered off street on private land and public land to supplement the individual charging network. The applicant states this will improve driver confidence and ultimately help to improve the uptake of electric vehicles.

- 7.11 Although the adopted local plan 2009 does not have a policy specific to EV charging. Policy CC1 seeks to encourage measures to provide renewable energy, sustainable construction and the efficient use of resources. Policy CC1 in paragraph 11.13 notes that, *'this is a fast developing area of national policy and its requirements in Policy CC1 should be regarded as a minimum and may be superseded by further national guidance and if so, that guidance will take precedence..... In addition to providing renewable energy within new development the installation of renewable energy to supply existing buildings will also be encouraged. The policy also gives general support to the provision of standalone schemes to provide renewable energy, where these can be developed without adverse impact on the environment or local communities'.*

- 7.12 As such the principle of the proposal as a sustainable form of development, with positive impacts on the environment, by providing EV charging points for public use, is one the Council supports in principle. However, the application site, although close to Heathrow airport and on the edge of the residential area, is located in close proximity to existing residential dwellings and their gardens and in order to access the site, drivers must drive into the local roads serving the existing houses which they would otherwise not need to. As such issues, including the impact on the highway network and on the amenity of the existing residential properties, needs to be given consideration. The proposal is for a commercial use in a residential area. These points are discussed further below.

Design and appearance

- 7.13 Policy EN1a of the Core Strategy and Policies DPD (CS & P DPD) states that *“the Council will require a high standard in the design and layout of new development. Proposals for new development should demonstrate that they will: create buildings and places that are attractive with their own distinct identity; they should respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land.”*
- 7.14 The application is for the demolition of the existing garages at the site and the installation of an Electric Vehicle Charging site. It will provide 24 no. rapid electric vehicle (EV) charging bays, with EV charging dispenser units. In addition, the site would include a small substation, toilet and vending machine. A close boarded fence would provide the boundary to the site.
- 7.15 The proposal would not be particularly visible from off the site and would have fencing around it, similar to that used in residential areas. The proposed structures, including the sub-station, toilet, vending machine and dispenser units are not particularly high or large in scale and will replace the existing garage structures bordering the site. Therefore, they are acceptable from a design and visual appearance point of view. The site does consist of a large expanse of hardstanding and any landscaping could help to improve the site visually, as well as help with buffering.
- 7.16 There is no objection on the design and appearance and the proposal accords with Policy EN1.

Impact on neighbouring residential properties

- 7.17 Policy EN1b of the CS & P DPD states that:
- “New development should achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or overbearing effect due to bulk and proximity or outlook.”*
- 7.18 Policy EN11 refers to development and noise and states that:-
- ‘The Council will seek to minimise the adverse impact of noise by:*

a) requiring developments that generate unacceptable noise levels to include measures to reduce noise to an acceptable level,
b) requiring appropriate noise attenuation measures where this can overcome unacceptable impacts on residential and other noise sensitive development proposed in areas with high noise levels. Development will otherwise be refused,'

- 7.19 The nearest residential properties to the application site are those on Park Road and Selwood Close. The proposed structures, including a small substation, dispenser units, toilet and vending machine, as well as a close boarded boundary fence, are not particularly high or large in scale and will replace the existing garage structures bordering the site. Given this and the distance to the actual dwellings adjoining the site, the proposed structures are not considered to have a poor relationship and will not result in a loss of amenity in regard to loss of privacy, loss of light or overbearing impacts.
- 7.20 However the use proposed is of a commercial nature and is considered to have a significant impact on the amenity of neighbouring residential properties in close proximity to the application site along Park Road and Selwood Close. This is particular true for the properties which adjoin the accesses to the application site which will be used by vehicles entering and leaving the proposed EV charging car park.
- 7.21 The existing garages were originally built for the use for parking vehicles for domestic use for dwellings in the local area. The applicant has noted that only 2 of the garages are still used and that they have not been used to park vehicles in due to the size for some time. As such the current level of use of the site, and therefore vehicular movements associated with it, is extremely low. It is considered to be very unlikely that these garages would be used regularly for residential parking in the future. Non-vehicular storage in garages remote from residential dwellings is unlikely to generate daily movements to each garage unit. The proposal is for a commercial use and will result in the introduction of a commercial use and an intensification of use of the site. Although unlikely to occur frequently, it is considered that at full capacity, the proposed 24 charging bays would have the potential to introduce up to 72 vehicles per hour. Although it is not clear what the rate of uptake of electric vehicle charging will be in the future, the proposed development would introduce a considerable number of vehicular trips to Park Road and Selwood Close which are both narrow, residential roads. In addition, in the event of all bays being utilised it could cause congestion.
- 7.22 Vehicles accessing the site will need to leave the local highway network and drive past the dwellings on Park Road. Once on site, drivers have to leave their vehicles and plug it in to the charge point. They can then use the toilets and vending machine, or just stretch their legs, talk to other drivers or on their phones, listen to the radio etc while waiting for the vehicle to charge. (approx. 20 mins) Once charged, vehicles will need to be unplugged and they exit the site, driving past the properties on Selwood Close and re-joining the local highway network.
- 7.23 It is considered that the proposed development which would be of a commercial nature in a residential area would result in a detrimental impact

on the amenity of existing neighbouring residential properties adjoining the application site. This is in particular in regard to increase in intensity of use of the site (compared to the original domestic garage use) and the noise and disturbance caused by the activity of vehicles entering and leaving the site and indeed by people using the site in this location for the use proposed.

- 7.24 The applicants have submitted a noise report and the Council's Environmental Health Officer (EHO) has been consulted and raised no objection. The noise report includes details of noise from cars and the sub-station, which the EHO has raised no objection to, subject to conditions. However, the noise report does not consider the impacts of the use in regard to the activity of vehicles to the site and how people behave who use the site. Policy EN11 on noise at paragraph 10.48 states that '*Policy EN11 sets out the Council's general approach to minimising the adverse impact of noise by reducing noise levels from noise generating activities and locating noise sensitive development away from sources of high noise*'. The noise sensitive use, (residential) is already present in this location as it is a residential area. It is considered that the proposed commercial use of the EV charging site, would create noise and disturbance at the detriment of the amenity of the occupiers of the existing residential properties in the local area and as such is not considered to be appropriate or acceptable in this location, and is contrary to Policy EN11. It is not considered that conditions could be imposed which would meet the tests set out in the PPG to make the development acceptable. In addition, an amendment to the application by, for example, reducing the number of charging bays was not sought as this would not overcome the fundamental concern over the impact on residential amenity associated with the activity from the use.
- 7.25 In regard to light pollution, it is not considered that the proposed lighting would cause a loss of amenity that would justify refusal of permission, it is likely that the details could be agreed by the imposition of a condition, in order to ensure they have an acceptable impact on neighbours and it is needed for safety and security reasons.

Highway and parking provision

- 7.26 Strategic Policy SP7 of the CS & P DPD states that:

"The Council will reduce the impact of development in contributing to climate change by ensuring development is located in a way that reduced the need to travel and encourages alternatives to car use. It will also support initiatives, including travel plans, to encourage non-car-based travel."

- 7.27 Policy CC2 of the CS & P DPD states that:

"The Council will seek to secure more sustainable travel patterns by: ... (d) only permitting traffic generating development where it is or can be made compatible with the transport infrastructure in the area taking into account: (i) number and nature of additional traffic movements, including servicing needs; (ii) capacity of the local transport network; (iii) cumulative impact including other proposed development; (iv) access and egress to the public highway; and (v) highway safety."

- 7.28 Policy CC3 (Parking Provision) of the CS & P DPD states that the Council will require appropriate provision to be made for off-street parking in development proposals in accordance with its maximum parking standards.
- 7.29 The County Highway Authority (CHA) was consulted on the planning application and has raised an objection recommending refusal on the following reason:-

'The proposed development would lead to an increase in vehicular movements to and from the Development site where, due to the location and geometry of the accesses to the site, this increase would lead to conditions prejudicial to the safety and free flow of the public highway, contrary to the to the National Planning Policy Framework 2021 and policy CC2 of Spelthorne Borough Council's Core Strategy and Policies Development Plan Document February 2009.'

- 7.30 The CHA notes that the proposal would result in an EV charging site taking vehicular access and egress from Park Road and Selwood Close, over two existing vehicular accesses, serving 24 no. rapid electric vehicle (EV) charging bays and states the following>

'The accesses currently serve 32 garages of which the Planning Statement reveals only 2 are in use, with the remaining garages being vacant and in disrepair. The garages, as detailed by the Planning Statement, have not been used for vehicle parking in quite some time. Given the dimensions of these garages, and the fact that they are not owned by local residents, it is considered to be very unlikely that these garages would be used regularly for residential parking in the future. Non-vehicular storage in garages remote from residential dwellings is unlikely to generate daily movements to each garage unit. The proposal will result in an intensification of use of the site. At full occupation and full capacity, the proposed 24 charging bays would have the potential to introduce up to 72 vehicles per hour. It is not abundantly clear what the rate of uptake of electric vehicle charging will be in the future, however it is only right for the CHA to consider the full capacity that the site could facilitate. Whilst proposed communications technology managing the charging demand would mean full capacity is unlikely to be reached frequently, it is still clear that the development would introduce a considerable number of vehicular trips to Park Road and Selwood Close which are both narrow, residential roads. In the event of all bays being utilised, the CHA does not consider it a guarantee that prospective drivers would avoid, or indeed drive through the site to find another location, particularly given that they may not have the charge capacity to do so. Therefore, the potential for cars to 'stack up' on the accessway, or on-street along Park Road, and therefore interfere with free-flow of traffic along Park Road, cannot be dismissed.'

- 7.31 In regard to access constraints, the CHA raises concerns about the use of the existing access off Park Road. It states that *'This road experiences a considerable demand for parking, resulting in space constraints and antisocial parking, and the need for the turning head area at the end of the road to be permanently clear of parked vehicles to allow safe access to the site. The CHA do not consider it practical to have a short length of yellow lines in the turning head area. As previously mentioned, Park Road is a long and narrow*

residential cul-de-sac street, and as a result, the turning head area is completely out of sight, and not visible or obvious unless one drives right to the end. Therefore, poor compliance with these restrictions would be expected, as is the case in other such residential and remote locations, due to the difficulties involved in ongoing enforcement. Given the existing parking pressures on Park Road, even where parking restrictions were observed, vehicles would be displaced to other areas on the road which would further compromise the free-flow of two-way traffic and/or the ability of pedestrians to pass the footway. Whilst the proposed development would promote a one-way route through the site (which in itself may be unenforceable and cause issues), residents at the end of Park Road – and any visitors and services calling at those properties - will continue to require two-way use of Park Road. Park Road has been constructed with a narrow carriageway, appropriate for its intended use as a residential cul-de-sac. Given existing parking patterns, there is insufficient width for two vehicles to pass on much of Park Road.'

- 7.32 The CHA continue to raise concerns stating that, '*...If the proposal were permitted, the number of vehicles travelling west along Park Road would increase significantly, and there is a potential for queuing to occur on the entry to the site. Both the increase in westbound movements and any potential queuing would materially affect the ability of residents to pass the road unimpeded. The increase in vehicular movements to and from the site also raises potential for conflict at the junction of Park Road and Selwood Close. This junction, and particularly its interaction with the junction of the residential estate and Park Road (B378), was not designed to accommodate the number of vehicular movements that could be generated by this proposal. Vehicles exiting Selwood Close may risk conflict with vehicles turning off the main road given the close proximity and ambiguous priority of the road in this location. The existing accessways themselves will be resurfaced as part of the proposals. However, they will both still be of extremely limited width, and for the egress in particular, this would cause limited inter-visibility between the position that an emerging driver would be sat at, and the adjacent footway. The CHA considers this issue would be significantly heightened by the high trip generating nature of the proposed land use.'*
- 7.33 The CHA note that despite previously requesting pedestrian intervisibility splays to be sufficiently demonstrated from the egress onto Selwood Close, the Applicant has not provided these. The CHA states, '*... Surrey County Council's guidance sets out that pedestrian visibility splays measuring 2 metres by 2 metres should be provided on either side of an access that crosses a footway. These splays should be measured from a point 2 metres back from the back edge of the footway (where a driver would be positioned when the front of their vehicle is at the back edge of the footway). In order to address the issue of poor pedestrian inter-visibility, a drawing was provided at Planning Application stage showing boundary fences to be erected at a height of 0.6m either side of the egress. It was not demonstrated that the Applicant has control of the existing boundary vegetation, but even if this was removed it is conceivable that the owners of the adjacent properties could reinstate a boundary treatment. Visibility splays are not permitted to cross over third-party land, as there would be nothing to prevent that third party from erecting or allowing an obstruction to those splays. Therefore, this would not overcome the highway safety concern of pedestrians approaching the egress along the*

Selwood Close footway, and not being spotted by a vehicle driver, or vice versa.

7.34 In regard to geometry of access and egress the CHA also has concerns, noting that, *'... There are no proposals to modify the existing access off Park Road, which is noticeably narrow in width, meaning drivers arriving at the site would be required to negotiate their vehicle very carefully around the existing on-street disabled bay and into the accessway. It would be expected that vehicle drivers, many of whom may be new users and therefore not be familiar with the site, would struggle to manoeuvre in one attempt, and have the potential to overrun the footway adjacent to the access. In light of the high vehicular trip generation anticipated from the proposed site, there would be an unacceptably high likelihood of conflict between vehicles accessing off Park Road, and also between vehicles and pedestrians. Based on the submitted swept-path drawings for 2.m wide vehicles on both accessways, there is only approximately 50cm between the edge of vehicles and the boundary fencing. It should be noted that there are models of long-wheelbase vans which substantially exceed this dimension, meaning the margin would be even further reduced. As a result, the safe passage of pedestrians would be significantly compromised. Whilst it is acknowledged that access to and from the site will be undertaken predominantly by vehicle, there is a reasonably high chance that drivers will not want to stay in their vehicle for the duration of the charge. Due to the potential for a high intensity of vehicular trip generation to and from the site, the likelihood of a pedestrian meeting a vehicle on the approx. 30m long access road, should any user of the site decide to enter / exit the site on-foot, is considered high. The absence of refuge areas for pedestrians along the accessway would compound this issue. Emergency vehicles such as fire appliances may need to enter the site to service the proposed development – a swept-path assessment has not been demonstrated. The site access and drive should be widened to accommodate the largest type of vehicle anticipated to access the site in the event of an emergency. However, the largest vehicle the submitted tracking shown is a light goods van. This vehicle is smaller than that of a fire appliance, however it utilises the full access width right up to the boundary.'*

7.35 Therefore, given the space constraints on the Park Road highway, the location and geometry of the access itself, as well as the lack of pedestrian inter-visibility onto Selwood Close, the CHA considers that the high vehicular trip generation expected from the proposed development would significantly compromise highway safety for users of Park Road and Selwood Close. The CHA has raised an objection to the proposed scheme on highway safety grounds. As such it is considered that the scheme is unacceptable and conflicts with policy CC2.

Trees/Ecology

7.36 Policy EN8 of the CS and P DPD states that the Council will seek to protect and improve the landscape and biodiversity of the Borough by ensuring that new development, wherever possible, contributes to an improvement in the landscape and biodiversity and also avoids harm to features of significance in the landscape or of nature conservation interest. It is also important to note the guidance regarding protected species in Circular 06/2005. This states that *"it is essential that the presence or otherwise of protected species and the*

extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

- 7.37 The applicant has submitted a tree survey which has been reviewed by the Council's Tree Officer and who has raised no objection. In relation to ecology the site is located adjacent to Staines Moor which is a SSSI and the proposal includes the removal of existing redundant garages on the site. Some letters of objection have referred to the presence of bats at the site. As such, the applicant would be required to carry out an ecological appraisal of the site, in particular to review whether there are in fact bats present at the site, and if so, provide mitigation for this. This would need to be carried out before planning permission could be granted.
- 7.38 Therefore, the proposal currently does not demonstrate that bats are or are not present at the site and as such this would be unacceptable and is contrary to the advice in the Circular and Policy EN8.

Contaminated Land

- 7.39 The Council's Pollution Control Officer has raised no objection but has noted that the existing garages are to be demolished. Given the age of the structures, it is likely that asbestos containing materials could be present. Controlled management of any asbestos present is required to prevent contamination of the land through fibre release during demolition. Given the proximity to neighbouring residential properties, control of dust through mitigation would be required through use of a Dust Management Plan, which could be imposed by way of condition or informative if permission were to be approved. The proposal is considered acceptable in accordance with Policy EN15 and the NPPF.

Equality Act 2010

- 7.40 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.41 The question in every case is whether the decision maker has in substance had due regard to the relevant statutory need, to see whether the duty has been performed.
- 7.42 The Council's obligation is to have due regard to the need to achieve these goals in making its decisions. Due regard means to have such regard as is appropriate in all the circumstances.

- 7.43 Person with protected characteristics may be affected by the scheme in terms of using the local roads and passing the site, however these impacts will be limited and the regard has been given to this issue.

Human Rights Act 1998

- 7.44 This planning application has been considered against the provisions of the Human Rights Act 1998.
- 7.45 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 7.46 Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e., peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.
- 7.47 In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, officers have concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the refusal of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

Conclusion

- 7.48 The proposals are considered to be for a commercial use in a residential area which will have a negative impact on the amenity of neighbouring residential properties. The proposal will result in an intensification of the use of the site and the noise and disturbance caused by the use of the site and the coming and goings of vehicles, would be at the detriment of their residential amenity. In addition, the CHA has raised an objection on the intensification of the use of the site causing a highway safety issue. As such the proposal is considered to be unacceptable and is recommended for refusal.

8. Recommendation

- 8.1 REFUSE for the following reasons:

1. The proposed development would be of a commercial nature in a residential area leading to a harmful level of noise and general disturbance, which would be detrimental to the amenity of neighbouring residential properties adjoining the application site, contrary to Policy EN11 of the Core Strategy and Policies DPD 2009.
- 2 The proposed development would lead to an increase in vehicular movements to and from the development site where, due to the location and geometry of the accesses to the site, this increase would

lead to conditions prejudicial to the safety and free flow of the public highway, contrary to the to the National Planning Policy Framework 2021 and policy CC2 of Spelthorne Borough Council's Core Strategy and Policies DPD 2009.

3. The applicant has failed to submit a bat survey, and therefore failed to demonstrate to the satisfaction of the Local Planning Authority the extent to which bats may be affected by the proposed development. It is not therefore possible to ascertain the full impact of the proposal on bats which are protected species. The proposal is therefore contrary to Circular 06/2005, and Policy EN8 of the Council's Core Strategy and Policies DPD 2009.