

REPORT TO AREA PLANNING PANEL (KEIGHLEY)

**REPORT OF THE STRATEGIC DIRECTOR OF REGENERATION TO THE MEETING OF
THE AREA PLANNING PANEL (KEIGHLEY) TO BE HELD ON 18th DECEMBER 2008**

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SUMMARY STATEMENT - PART THREE

Applications recommended for refusal

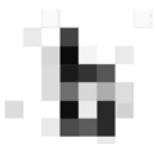
The sites concerned are:

1 The Croft, Thwaites, Keighley.

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2006-2007
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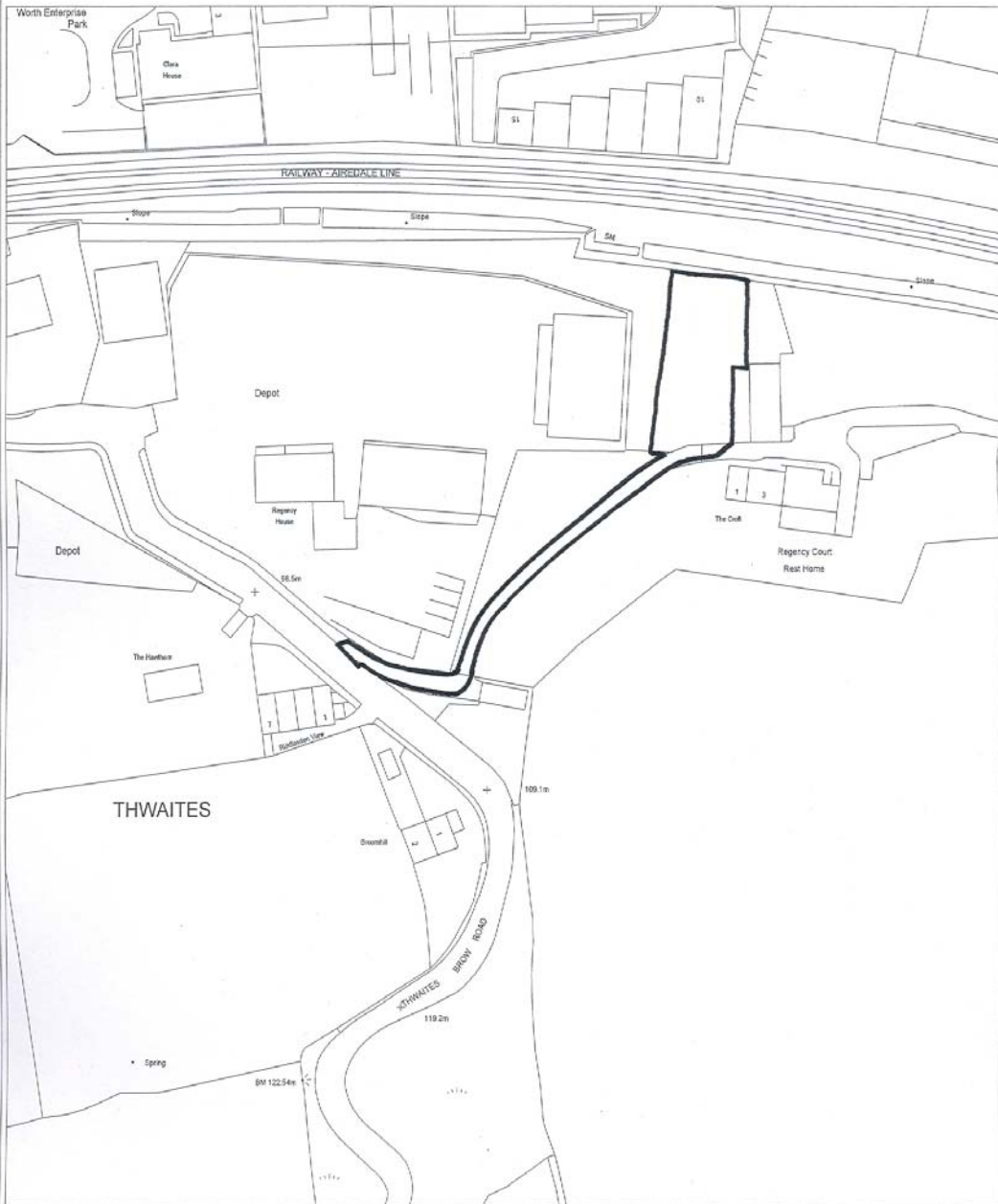
Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



BRADFORD
METROPOLITAN DISTRICT COUNCIL

KEIGHLEY AREA PLANNING PANEL

DATE
18 December 2008



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LOCATION

ITEM No.

Croft Cottage 1 THE CROFT, THWAITES, KEIGHLEY

Date: 18th December
Item: 15
WARD: Keighley East (ward 16)

RECOMMENDATION: TO REFUSE PLANNING PERMISSION

APPLICATION No: 08/01569/FUL

Type of Application/Proposal & Address

Full planning application for construction of four detached dwellings on land at Croft Cottage
1, The Croft, Keighley BD21 4ND.

The application is brought to Panel as a result of request by Ward Councillor.

Site Description

The application land has previously been used for domestic purposes and in connection with the applicant's garden maintenance business. It has an area of 0.1342 hectares. The site is accessed via a surfaced drive leading off Thwaites Brow Road that serves seven existing dwellings and a nursing home. To the north of the site is a conifer hedge hiding the Airedale railway line, to the east of the site is a fence and beyond this an old barn converted to residential use. An existing garage stands at the southern part of the land and there are residential cottages and the Nursing Home beyond the shared access. To the west of the site are industrial premises and land occupied by Byworth Boilers. A substantial industrial shed stands set on land elevated at a higher level than the site. A conifer hedge presently exists between the site and the industrial / commercial development along part of the boundary. The site slopes gently down towards the railway. The existing residential development including the barn conversion to the east is two storeys in height.

Relevant Site History

- 06/01279/FUL – Full planning application for change of use from garage to dwelling at Croft Cottage 1 The Croft Aireworth Keighley West Yorkshire. Refused 16.05.2006
- *New residential unit would be unacceptable in such close proximity to an existing industrial (B2) use, whose operations would likely give rise to justifiable complaints from future residential occupiers regarding noise and general disturbance.*
 - *Such complaints would in turn have the potential to adversely affect the viability of that existing industrial operation to the detriment of local economic activity and employment generation.*
- 07/02462/FUL – Full planning application for conversion of garage to dwelling at Croft Cottage 1 The Croft Aireworth Keighley West Yorkshire. Refused 20.06.2007 on the grounds of being piecemeal development; inaccurate drawings and plans; inconsistent information; overlooking - lack of privacy and loss of amenity & privacy.
- 07/02463/FUL – Full planning application for three detached dwellings at Croft Cottage 1 The Croft Aireworth Keighley West Yorkshire. Refused 20.06.2007 on the grounds of being piecemeal development; inconsistent information; insufficient information; overlooking - lack of privacy and Inadequate turning space within site.

07/07030/FUL – Full planning application for three detached dwellings at Croft Cottage 1 The Croft Aireworth Keighley West Yorkshire. Withdrawn by applicant for discussions with planning officers prior to resubmission.

Replacement Unitary Development Plan (UDP)

Proposals and Policies

The site is unallocated on the RUDP Proposals Map

The following policies are relevant:

[UDP1](#) - Promoting Sustainable Patterns of Development

UDP4 – Economic Regeneration

[UR2](#) - Promoting Sustainable Development

[UR3](#) - The local impact of development

[H7](#) - Housing Density – Expectation

[H8](#) - Housing Density - Efficient Use of Land

[TM2](#) - Impact of Traffic and its Mitigation

[TM12](#) - Parking Standards for Residential Developments

[D1](#) - General design considerations

[D4](#) - Community safety

P7 - Noise

Town/Parish Council

Keighley Town Council says it will “follow Planner’s guidelines”.

Publicity and Number of Representations

Publicised by means of individual neighbour notification letters. Publicity expired on 29.04.2008. Five letters of objection have been received.

Summary of Representations Received

All 5 representations object to the proposal. The grounds of objection are:

- Concerns expressed by a neighbouring business : The present trend towards building residential homes in traditionally industrial and commercial areas of Keighley is threatening the continued existence and viability of local businesses. The necessary noise and heavy traffic associated with local industry is not conducive to a residential area, and there are likely to be complaints lodged once families move in to any houses approved in unsuitable locations like this site - threatening the viability of the business and their employees.
- The noise survey submitted by the applicant does not accurately reflect the noise level of the regular boiler tests carried out on the adjacent site by Byworth Boilers Ltd.
- Plans and forms are inaccurate and contradictory with regard to conifer trees. No permission will be given for removal of 10 conifer trees growing on Byworth Boiler Ltd. land next to the boundary with Plot 2. The conifer trees are threatened by building activities on Plot 2 due to their closeness to the building. Development will endanger bullfinches (RSPB’s red list) residing in the conifer trees.
- 3rd parties own part of the access road and have not been approached for permission to allow access for any proposed new developments.
- Extra Traffic :Potentially 8 more cars will be emerging onto Thwaites Brow Road could be dangerous because visibility when joining Thwaites Brow Road is very restricted.
- The access road is single track with limited passing and two blind bends making it difficult to manoeuvre when two vehicles meet each other head on. Previously approved development will already lead to an increase in traffic and the proposed

development would just make things worse increasing traffic and adding another blind pull out for any new properties.

- Access road would move closer to the Mistral (2 The Croft).
- Levels would mean that the height of proposed dwellings would not relate well to the height of existing dwellings.
- Turning within the site would be inadequate due to the cramped nature of development – vehicles from Plot 1 would have to reverse out onto a narrow lane.
- Location of the sewerage pumping station is not given and could cause a potential noise problem.
- Noise and vibration nuisance from traffic will arise.
- The development is too ramped rather than spaced out as existing development.
- Position of dwellings in relation to each other and garden land for 1 The Croft will lead to loss of privacy for 2 and 4 the Croft.
- Suggested trees will adversely affect house foundations and insurance in the future.

Consultations

Network Rail: No objection to principle of the development but outline safety requirements that must be met due to proximity of railway line.

Drainage Services Unit: Recommends conditions and informatives on any approval but no objections in principle.

Minerals and Waste: Recommend a condition for any approval.

Trees: Had concerns with the tree planting proposed.

Health and Safety Executive: Does not advise, on safety grounds, against the grant of planning permission in this case.

Northern Gas Networks (failed to comment on current application but comments on 07/07030/FUL): No objection.

Environmental Health Scientific and Technical Services (Contaminated Land):

Comment that no mention is made of the fact that the site lies within 250m of an unauthorised landfill site, reference number 04 SE 25. Having checked with the Council's Minerals and Waste Planning Officer, it is believed that the site was infilled with clean inert fill, but this isn't actually known, so to ensure the safety of the occupiers of the proposed dwellings they suggest that a limited intrusive site survey is carried out in view of the fact that the area in question was part of a working farm. Further, that a limited ground gas monitoring regime is carried out due to the fact that the site is within 250m of the landfill.

Environmental Health - Environmental Protection Pollution Team:

Environmental Health Officer considers this is a totally unsuitable location for a residential use.

Following representations on behalf of the applicant and submission of an acoustic consultant's report a second Environmental Health Officer opinion was sought. The 2nd Officer agrees with the earlier Environmental Health Department advice about the adverse impact of the adjoining industrial use on any new housing on this land and they cannot support a recommendation to approve this application. In the event the application is approved (by Panel) they would request that it is made a condition of consent that it

includes a scheme to provide effective acoustic glazing and ventilation to be approved before the development commences.

Summary of Main Issues

1. Principle of development and density
2. Appropriateness of design and external appearance
3. Impact on, and relationship with neighbouring premises
4. Relationship of the proposed houses to the adjoining industrial buildings and activity
5. Noise and standards of amenity
6. Traffic flow and highway safety
7. Comment on representations

Appraisal

Appraisal is based on amended plans 01 Rev B dated 10 Oct 08 and received by the Local Planning Authority on 13 October 2008.

Principle of development and density

The site is located within the urban area and is previously developed brownfield land. There are therefore no objections to the principle of residential development. However, it is necessary to test the appropriateness of residential development against other RUDP Policies. The density of residential development proposed equates to about 30 dwellings / hectare. The minimum density expected by PPS3 is met and the proposal would accord with Policies H7 and H8 of the RUDP.

Appropriateness of design and external appearance

The site is on the edge of an existing area of residential development including a long established nursing home that is bordering onto an industrial area. Visually, a residential development would not appear out of place as it would be at the same level as the existing residential development. The design of the proposed dwellings is unremarkable but in keeping with architectural style of the modern housing built to the east, and reflecting characteristics such as stone heads, jambs, mullions and cills to windows. The applicant proposes the use of artificial stone for the walling and a concrete tile for the roofs. Such materials would be compatible with the houses to the east and are acceptable in principle subject to agreement of the precise artificial stone and tile to be used. It is considered that the style of the proposed dwellings will not be out of keeping with the character of existing dwellings in close proximity to the site.

Sections through the site demonstrate that the size and massing of the proposed dwellings will be proportionate to existing dwellings, levels being used so that the proposed dwellings will not over dominate existing dwellings. The level of development will be more intense than the present level of density giving rise to a close knit development but this type of development is not necessarily unacceptable.

Boundary treatments to Plot 1 are not shown. It is considered that the future occupier will require creation of some private amenity space and delineation between private and public space. Any approval would need conditioning to ensure that any means of enclosure, whilst providing privacy did not result in an unacceptable streetscape injurious to the visual amenities of the surrounding area. Landscaping can be controlled by condition to ensure the trees that are planted are appropriate for their location.

In conclusion it is considered that the proposal is of suitable design and would accord with Policies D1 and UR3 in terms of its design and external appearance.

Impact on and relationship with neighbouring dwellings

The individual dwellings on the development have been laid out so that there will be no loss of privacy between their habitable windows and no overlooking at close quarters and no significant adverse impact on existing dwellings adjoining the site. Unit 4 would be closest to the existing barn conversion to the east side of the site. The internal arrangement of this house means that the closest first floor window to the barn conversion will be a bathroom window, which can be conditioned to be obscure glazed to avoid overlooking. The position of the first floor bedroom window to Plot 4 will mean that any views from it across to the barn conversion and its garden will be at an obtuse angle so will not permit unacceptable overlooking.

The privacy between Plot 4 and the barn conversion at ground floor level could be safeguarded at ground floor by a condition requiring a 2m high close boarded fence to be erected and maintained along the common boundary. The applicant has also indicated tree planting along the common boundary to help to ensure the privacy of the existing barn conversion.

The siting of the dwelling on Plot 1 will not lead to any loss of privacy between the proposed dwelling and 1 The Croft.

The proposed dwellings are arranged on the site so as to avoid any overbearing affect being created on any of the them from the position of the others.

In order to ensure that the proposed parking for 1 The Croft will not cause disturbance or nuisance to the occupiers of the barn conversion the proposal retains the rear cement and render garage wall and extends it by means of a 1.8m high stone wall. The impact of the existing walling on the barn conversion will not change whilst the new section of wall although obscuring views for the occupants of the barn conversion will not obstruct light to windows to such an extent as to make the proposal unacceptable. It should be noted that the majority of the 1.8m high proposed wall can be erected without planning permission under permitted development rights.

Relationship of the proposed houses to the adjoining industrial buildings and activity

Plots 1 and 2 would be set down about 2 metres below the level of the existing industrial building to the west of the site. This would result in the eaves height of the industrial building appearing 9m above the ground floor level of the dwellings on Plots 1 and 2. The side elevations of Plots 1 and 2 would be sited a minimum of 5.7m from the existing industrial building.

The effect of this is that, should the conifers along the boundary be removed, the Byworth Boilers shed would appear very oppressive when viewed from within the development. The gable elevations facing directly onto the site would only have one landing window in them, and the orientation of habitable room windows in the dwellings on Plots 1 and 2 would mitigate these effects, but the physical relationship to the Byworth Boilers building is not ideal.

There are also concerns about the very limited gardens available to the proposed houses. These back directly onto the boundary of the railway line where there is a line of conifers providing screening but which would also restrict the outlook of the new dwellings. However, although the amenity spaces attached to each proposed dwelling

are small, they are adequate to meet the needs of the occupants for waste bin storage etc and the Council does not have any adopted Policies in relation to garden sizes. Nevertheless, the small garden sizes means that the layout is cramped and would not provide good standards of amenity.

Noise and standards of amenity

The main concern with this proposal is the relationship the proposed dwellings would have with nearby noise generating sources such as the by-pass, the railway and, in particular the established industrial premises of Byworth Boilers Ltd. Noise and its impact on development is a material consideration in determination of planning applications as set out in Government advice contained in PPG24.

Paragraph 2 of PPG24 states that

“The impact of noise can be a material consideration in the determination of planning applications. The planning system has the task of guiding development to the most appropriate locations. It will be hard to reconcile some land uses, such as housing, hospitals or schools, with other activities which generate high levels of noise, but the planning system should ensure that, wherever practicable, noise-sensitive developments are separated from major sources of noise (such as road, rail and air transport and certain types of industrial development). It is equally important that new development involving noisy activities should, if possible, be sited away from noise-sensitive land uses. Development plans provide the policy framework within which these issues can be weighed but careful assessment of all these factors will also be required when individual applications for development are considered. Where it is not possible to achieve such a separation of land uses, local planning authorities should consider whether it is practicable to control or reduce noise levels, or to mitigate the impact of noise, through the use of conditions or planning obligations.”

Again, relevant to consideration of this application, paragraph 17 of PPG24 states that:

“..., it should be remembered that the sound level within a residential building is not the only consideration: most residents will also expect a reasonable degree of peaceful enjoyment of their gardens and adjacent amenity areas.”

Government policy advice is incorporated within UDP Policies, in particular with regard to noise Policy P7 as well as Policies D1 (clause 2 of D1 states that proposals shall provide a quality setting for the development).

Policy P7 states

“WHERE DEVELOPMENT PROPOSALS GIVE RISE TO AN UNACCEPTABLE NOISE PROBLEM BY VIRTUE OF THEIR NATURE AND/OR LOCATION, DEVELOPERS WILL BE REQUIRED TO CARRY OUT ANY REMEDIAL MEASURES NECESSARY TO SATISFACTORILY OVERCOME THE PROBLEM. WHERE NOISE PROBLEMS CANNOT BE SATISFACTORILY OVERCOME PLANNING PERMISSION WILL NOT BE GRANTED. “

The relationship of this site to the noise generated by the Aire Valley by-pass, railway and industrial premises Byworth Boilers has been examined in detail by the Council’s Environmental Protection Pollution Section.

The Byworth Boilers Ltd. plant is close to the application site boundary and it is known that the company carry out multiple pressure tests every week at this established

industrial site, which results in a high pitched sound when the pressure is realised. There is in addition a constant noise from a compressor that is in use at the site which would not be capable of attenuation with a noise barrier on the boundary of the development due to the proximity of the noise source and elevation of the industrial building above the application site making an acoustic fence ineffective.

It would be reasonable to expect the people would want to use their gardens and open windows on their new homes. While it would be possible to insist that the houses were fitted with good quality sound insulation through double glazed windows and other measures, it would not be possible to limit noise to gardens or open windows in summer.

The Council's Environmental Health Officers have visited the Byworth Boilers Industrial site to evaluate the noise levels for the multiple boiler pressure tests carried out by the company. Two pressure tests were carried out by Byworth Boilers during their morning visit on 5th September 2008 which allowed them to assess the levels of noise being produced. When the pressure test is done the boilers 'blow' initially with a sudden loud noise and then slowly the high volume of pressurised air is released through a valve on the top of the huge test boiler. This process generates a loud high pitched and prolonged hissing sound. The Environmental health Officer found that the sound was clearly audible at the development site which is located immediately behind the Byworth Boiler site and therefore would generate a high degree of annoyance to persons in the vicinity.

Background noise readings were taken at the proposed development site and were within a range of 50-54 dB(A). when the pressure testing was initiated, the noise levels increased to 68.9 dB(A), exceeding back ground levels at one point by up to 18.9 dB(A).

In addition to the pressure testing of boilers on site there is a noisy compressor unit in use at the plant as well as movements of heavy good vehicles with reverse beepers. The recipient noise levels are further loaded by traffic noise from the Aire Valley Road to the north of the site and by regular train movements on the train line which runs close to one boundary of the site.

The Environmental Health Officer would recommend refusal of this application for residential use and it would also be important to note that Byworth Boilers would have the defence of 'Best Practicable Means' should complaints be received from future residents of this site.

As a result of the various concerns subsequently raised by the applicant and agent another Environmental Health Officer was asked to look again at the noise issues affecting the application site and have given a second professional opinion in a further consultation memo dated 7th November 2008.

The Officer has studied the application and supporting correspondence and made a site visit on the 6th November between 8.50 am and 9.35 am when he met the applicant with the Senior Planning Officer.

In the interests of clarity they can confirm that according to their records Byworth Boilers has only generated a single complaint to their Department back in 2001. The complaint, from Strong Close nursery school (about 250metres away) indicated noise

from boiler testing was so intrusive that pupils could not hear instructions given by staff whilst outside in the playground. Investigations indicated that this was a short term event due to pressure testing a large boiler destined for the Greek Navy.

The Environmental Health Officer has carefully considered the letter from the applicant's noise consultant. He agrees that adequate acoustic glazing and ventilation would result in acceptable internal noise levels within the houses. Whether noise is at "statutory nuisance levels" is not an issue here. Some daytime noise from Byworth Boilers, the railway line and other nearby commercial sources is unavoidable at this location and to an extent should be expected. Their Departments concern is if complaints regarding noise are received (and any noise may not be actionable as a statutory nuisance) it may give rise to justified criticism of the Council for granting consent for a residential development at such close quarters to a large industrial site and a railway line.

The view of the applicant's noise consultant that Byworth Boiler's building immediately adjacent to the application site is an effective barrier attenuating noise from Byworth's yard and that noise from HGV movements were not observed to be intrusive at the time of their visit is acknowledged. However, throughout the time the Environmental Health and Senior Planning Officer were on site there was intermittent (and subjectively intrusive) crashing and banging metallic impact noise breaking out of the building itself and one long blast of escaping compressed air. These short term events are intrusive but when averaged out over a long measurement period, say a 1 hour Leq (or time weighted average) it would give the impression that noise was not an issue.

Whilst adequate noise attenuating measures may be effective at minimising noise levels inside the proposed houses it does seem apparent from even their relatively short visit that the combination of noise from Byworth Boilers and the railway line would not provide a good level of amenity to the users of any garden or outside space.

The pressure testing may have been a "worse case scenario" but they share the concerns previously expressed that occupiers of houses approved on the application site are likely to be disturbed by the normal day to day noise from operations at Byworth Boilers. In addition, should the application be approved it is unlikely that Environmental Health could formally deal with any complaints received.

A scheme to provide effective acoustic glazing and ventilation to the proposed dwellings would address concerns regarding internal noise levels. However, due to the differences in height between the Byworth Boilers site and the application site there is no scope to install an effective noise barrier at the boundary and their concerns regarding noise affecting gardens/open spaces remain. Although it may be possible to control the noise for the occupants of the new dwellings inside their dwellings from the comments from the Environmental Protection Section it would appear that it will not be possible to control noise if windows are opened or outside in garden areas associated to the dwellings. It is reasonable to expect occupant's to open their windows on occasion and to use the garden areas associated with their dwellings and to do both activities with a reasonable degree of peaceful enjoyment of their dwelling and/or garden areas.

The Environmental Protection comments raise concerns that the combined noise produced by the Aire Valley by-pass, railway and industrial premises Byworth Boilers is potentially high enough level of nuisance that locating noise sensitive residential

development next to the established industrial business premises would not be satisfactory. The applicant could not ensure that noise levels emitted from these sources could be adequately mitigated or controlled to an acceptable degree that would allow future occupiers to enjoy an adequate level of amenity inside and outside the houses without complaints being lodged that may result in nuisance action against established and valuable local business and employer.

In conclusion it is considered that the proposed residential development of this site is incompatible with the adjoining business use because of the affect of existing noise on the proposed dwellings, and should therefore be refused as being contrary to Policies P7 and D1 of the UDP.

Traffic flow and highway safety

All new dwellings and the existing house at 1 The Croft would have two off road parking spaces. One of the spaces for 1 the Croft may result in reversing onto the access road 1 the Croft shares with the nursing home and other existing dwellings – but this will be no different from the current situation where there are vehicle parking spaces requiring reversing on or off the access road. It is considered that the site layout allows for adequate turning within the site for the majority, if not all vehicles to enter and leave the site in forward gear. The existing access to Thwaites Brow Road already serves 9 dwellings and a nursing home, but observation of the access road suggests it is lightly trafficked and it is not considered that the provision of a further four dwellings with their associated traffic would make the access unacceptable. The proposal is not considered to conflict with Policies TM2, D1 and UR3 of the RUDP in respect of parking, access and highway issues.

Comment on the other representations

Privacy, the relationship of the development to Byworth Boilers, the affect of noise on the development, levels, character of development, access to the Thwaites Brow Road and turning within the site have been discussed in the proceeding report.

The plans show five conifer trees being retained along the boundary with Plot 2 being retained. It would not be unacceptable in planning terms if these trees had to be removed to allow the development to proceed, but his opinion does not circumvent any additional permission the developer may require to remove the trees.

An informative would be required on any permission to ensure that development did not take place within the bird nesting season but permission could not be withheld because of the developments potential affect on the bullfinch's habitat.

The interests of Byworth Boilers have not been jeopardised by non service of notice number 1 required when ownership is not solely in the control of the applicant. Byworth boilers have commented on the application and their concerns taken into account in this report.

The species of new trees to be planted and their location can be controlled by condition in order to ensure they don't adversely affect house foundations.

The location of the sewerage pumping station could be required and agreed under condition to ensure that its location did not cause a noise problem.

The access into the cul-de-sac serving the four new dwellings would move closer to The Mistal but this is not necessarily seen by officers as being unacceptable in terms of the residential amenities of the occupants of the Mistral.

There maybe an increase in traffic noise with the more intense residential development of the site but there is no evidence to back up the contention that residential amenities would be adversely affected by noise and vibration nuisance from traffic associated with the development and these are not issues raised by Environmental Protection in their assessment of this proposal.

Community Safety Implications

Although the submitted drawings lack detail, it is acknowledged that private amenity spaces could be made defensible by conditioning provision of suitable means of enclosure and the dwellings provide surveillance of each other. Car parking is overlooked and close to dwellings. The development is considered to comply with Policy D4 of the UDP.

Reason for Refusal

The proposed dwellings would be located immediately adjacent to an established boiler manufacturing factory and the Airedale railway line and in close proximity to the Aire Valley Road, all of which generate significant noise nuisance. The proposed residential dwellings are incompatible with the adjoining general industrial use and this location would not provide an appropriate, quality setting for a residential development or offer a reasonable standard of amenity for prospective occupants who would be subject to noise nuisance, particularly when windows are open or they are using their gardens. The noise mitigation proposals suggested by the applicant are not considered sufficient to convince the Local Planning Authority that noise nuisance problems can be satisfactorily overcome so as to ensure an adequate standard of amenity for future occupants. The proposal is unacceptable having regard to the guidance contained within PPG24 and Policies P7 and D1 of the Replacement Unitary Development Plan (2005).