

# **TODMORDEN NEIGHBOURHOOD PLAN 2023 - 2032**

Todmorden Neighbourhood Plan Examination  
A Report to Calderdale Council

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October 2024

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## **1. Summary of Main Findings**

- 1 This is the Report of the Independent Examination of the Todmorden Neighbourhood Development Plan, prepared by Todmorden Town Council.
- 2 The Todmorden Neighbourhood Plan includes policies relating to the development and use of land. It does not seek to allocate land for development.
- 3 Subject to the detailed recommendations set out within this Report and made in respect of enabling the Todmorden Neighbourhood Plan to meet the basic conditions, I confirm that:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
  - the making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
- 4 Taking the above and the detailed content of this Report into account, I find that the Todmorden Neighbourhood Plan meets the basic conditions<sup>1</sup>.
- 5 I recommend to Calderdale Council that, subject to modifications, the Todmorden Neighbourhood Plan should proceed to Referendum.

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<sup>1</sup> It is confirmed in Chapter 3 of this Report that the Todmorden Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

## **2. Introduction and the Role of the Examiner**

- 6 This Report provides the findings of the examination into the Todmorden Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Todmorden Town Council.
- 7 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development by influencing local planning decisions as part of the statutory development plan.”*

(Paragraph 29, National Planning Policy Framework)

- 8 As above, this Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by Calderdale Council.
- 9 The made Neighbourhood Plan would then form part of the relevant development plan and as such, it would carry statutory weight and be used to help determine planning applications and guide planning decisions in the Todmorden Neighbourhood Area.
- 10 The Todmorden Neighbourhood Area corresponds to Todmorden Parish within the Metropolitan Borough of Calderdale. Calderdale Council is the Local Planning Authority.

### **Role of the Independent Examiner**

- 11 I was appointed by Calderdale Council to conduct the examination of the Todmorden Neighbourhood Plan and to provide this Report of the independent examination.

- 12 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the relevant Local Authorities. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 13 As a Member of the Royal Town Planning Institute, I am a chartered town planner. I have twelve years' direct experience of the independent examination of neighbourhood plans and orders. I have completed the independent examination of neighbourhood plans across all regions of England and across a full range of rural and urban areas.
- 14 I have over thirty years' land, planning and development experience, gained in local, regional and national roles across the public, private and community/partnership sectors.
- 15 As the Independent Examiner, I must make one of the following recommendations:
  - that the Neighbourhood Plan should proceed to Referendum; or
  - that modifications are made and the Neighbourhood Plan, as modified, should proceed to Referendum;
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the necessary legal requirements.
- 16 It is also a requirement that my Report must contain a summary of its main findings and give reasons for each of its recommendations.
- 17 My recommendation in respect of the Todmorden Neighbourhood Plan is set out in the introductory and concluding Chapters of this Report.
- 18 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only. The Planning Practice Guidance states that:  
  
*"...it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing..."*<sup>2</sup>

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<sup>2</sup> Planning Practice Guidance, Paragraph 056, Ref: ID 41-056-20180222.

- 19 However, it is also the case that *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing can be called for. This is a matter for the judgement of an Examiner.
- 20 Further to consideration of the information submitted, I decided not to hold a public hearing as part of the examination of the Todmorden Neighbourhood Plan. I am satisfied that all parties have had the opportunity to state their case and I am mindful that no party has indicated that they have been disadvantaged by the written procedure, or that they consider a public hearing to be necessary.
- 21 I also note that, following my consideration of the submission documents, I wrote a letter to the Qualifying Body in respect of matters where I sought further clarification or information. At the same time, in line with good practice, the Qualifying Body was provided with an opportunity to respond to representations received during the Submission consultation process.
- 22 All submitted information, including responses to questions set out in my letter of clarification, has been taken into account as part of the examination of the Todmorden Neighbourhood Plan.

### **3. Basic Conditions and Statutory Requirements**

- 23 This section of the Report considers the submitted information and the extent to which the Neighbourhood Plan as a whole meets the basic conditions and other statutory requirements. The Report goes on to consider the Neighbourhood Plan's introductory chapters and land use planning policies against the basic conditions.

#### *Basic Conditions*

- 24 As part of this process, the Independent Examiner must consider whether a neighbourhood plan meets the "*basic conditions*." These were *set out in law*<sup>3</sup> following the Localism Act 2011.
- 25 Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
  - the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations.<sup>4</sup>
- 26 In respect of the above, I note that the European Withdrawal Act 2018 (EUWA) incorporates EU environmental law (directives and regulations) into UK law and provides for the continuation of primary and subordinate legislation, and other enactments in domestic law.

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<sup>3</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

<sup>4</sup> *ibid* (same as above).

- 27 Also, for information, Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation. Of these, the basic condition referred to in the last bullet point above was brought into effect on 28<sup>th</sup> December 2018.

*Statutory Requirements*

- 28 In recommending that the Neighbourhood Plan should go forward to Referendum, I must consider whether the Referendum Area should extend beyond the Todmorden Neighbourhood Area to which the Neighbourhood Plan relates and I set out my consideration in this regard in the concluding Chapter of this Report.
- 29 In examining the Neighbourhood Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act) and Sections 61F and 61G of the Town and Country Planning Act 1990 (as amended), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a Qualifying Body;
  - has been prepared for an area that has been properly designated for such plan preparation;
  - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one Neighbourhood Area and that:
  - its policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 30 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. A Basic Conditions Statement should identify the Qualifying Body and should provide evidence to demonstrate how the Neighbourhood Plan meets the basic conditions.
- 31 Todmorden Town Council submitted a Basic Conditions Statement alongside the Neighbourhood Plan. This sets out how the Neighbourhood Plan meets the Basic Conditions.



- 32 Section 1 of the Basic Conditions Statement confirms that Todmorden Town Council is the appropriate *Qualifying Body* responsible for the Neighbourhood Plan.
- 33 The boundary of Todmorden Neighbourhood Area is identified by Figure 4 on page 15 of the Neighbourhood Plan.
- 34 The Neighbourhood Plan relates to the designated Todmorden Neighbourhood Area and there is no other neighbourhood plan in place in the Todmorden Neighbourhood Area.
- 35 The Neighbourhood Area was designated by Calderdale Council on 27 April 2017 (and was subsequently redesignated on 28 November 2022). The designation of the Neighbourhood Area satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).
- 36 The title page of the Neighbourhood Plan refers to the plan period as "2023 – 2032." In this way, the Neighbourhood Plan meets the requirement of specifying the period during which it is to have effect.
- 37 It is also a requirement for examination to consider whether or not a neighbourhood plan is compatible with the Convention rights.<sup>5</sup>
- 38 I am satisfied, noting the absence of any substantive evidence to the contrary, that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998.
- 39 In the above regard, I am mindful that information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. A Consultation Statement was submitted alongside the Neighbourhood Plan and the role of public consultation in the plan-making process is considered later in this Report.

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<sup>5</sup> The Human Rights Act 1998 incorporates the rights set out in the European Convention on Human Rights into domestic British law.

*Strategic Environmental Assessment and the Habitats Directive*

- 40 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:

*"Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects."*  
(Planning Practice Guidance<sup>6</sup>)

- 41 This process is often referred to as "screening"<sup>7</sup>. If likely environmental effects are identified, then an environmental report must be prepared.
- 42 In addition to SEA, a Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. Assessment must determine whether significant effects on a European (Natura 2000) site can be ruled out on the basis of objective information<sup>8</sup>. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment<sup>9</sup> of the implications of the plan for the site must be undertaken.
- 43 A Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report was produced on behalf of Todmorden Town Council and submitted alongside the Neighbourhood Plan.
- 44 This recognised the need to assess whether the implementation of the Neighbourhood Plan's policies might have negative or adverse consequences for social, economic or environmental assets in the area, including European sites.

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<sup>6</sup> Planning Practice Guidance, Paragraph 027, Ref: 11-027-20150209.

<sup>7</sup> The requirements for a screening assessment are set out in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

<sup>8</sup> Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

<sup>9</sup> In the case *People Over Wind & Sweetman v Coillte Teoranta* ("People over Wind" April 2018), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means that if a likely significant effect is identified at the screening stage of a habitats assessment, an appropriate assessment of those effects must be undertaken. In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, allowing neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an appropriate assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or a planning application.

- 45 In this latter regard, the Screening Report recognises that two Natura 2000 sites - the South Pennine Moors Special Area of Conservation (SAC) and the South Pennine Moors Special Protection Area (SPA) - are situated within a 15km buffer around Todmorden.

- 46 The Screening Report states that a:

*"...full HRA of the plan is not required as it does not contain any specific development allocations or policies or proposals that would significantly affect any European site alone or in conjunction with other projects or plans."*

- 47 In respect of Strategic Environmental Assessment (SEA), the Screening Report concludes that:

*"...it is unlikely that there will be any significant environmental effects arising from the plan. The Plan is in conformity with the Replacement Unitary Development Plan (RUDP) 2006 and the draft Local Plan...Both the RUDP and the draft Local Plan have been subject to a full Sustainability Appraisal, incorporating an SEA. Due to the nature of the Neighbourhood Plan, no sites are being allocated for development and the policies will have no significant effects and as such, it is considered that the plan does not require a full SEA to be undertaken."*

- 48 The statutory bodies, Historic England, Natural England and the Environment Agency, were consulted and none demurred from the conclusions above.

- 49 Natural England stated:

*"It is our advice...that there are unlikely to be significant effects from the proposed plan."*

*...we can confirm that in our view the proposals contained in the plan will not have significant effects on sensitive sites that Natural England has a statutory duty to protect."*

- 50 In addition to all of the above, I am mindful that national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan is compatible with EU obligations lies with the local planning authority:

*"It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)"* (Planning Practice Guidance<sup>10</sup>).

- 51 Calderdale Council has not identified any outstanding concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.
- 52 Noting this and the clear conclusions of the Strategic Environmental Assessment Screening Report, along with all of the above, together with the recommendations set out in this Report, I am satisfied that the Neighbourhood Plan meets its statutory requirements and obligations and that it meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2023) and Planning Practice Guidance (as updated).

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<sup>10</sup> *ibid*, Paragraph 031 Reference ID: 11-031-20150209.

Background Documents

- 53 In completing this examination, I have considered various information in addition to the Todmorden Neighbourhood Plan. I also spent an unaccompanied day visiting the Todmorden Neighbourhood Area.
- 54 Information considered as part of this examination has included the following main documents and information:
- The Neighbourhood Plan
  - National Planning Policy Framework (referred to in this Report as "*the Framework*") (2023)
  - Planning Practice Guidance (as updated)
  - Relevant Ministerial Statements
  - Town and Country Planning Act 1990 (as amended)
  - The Localism Act (2011)
  - The Neighbourhood Plan Regulations (2012) (as amended)
  - Calderdale Local Plan (2023)
  - Basic Conditions Statement
  - Consultation Statement
  - Strategic Environmental Assessment and Habitat Regulations Assessment Screening Report
  - Todmorden Housing Needs Assessment
  - Todmorden Design Handbook
  - Register of Non-Designated Heritage Assets
  - Other Supporting Documents
  - Representations received

#### **4. Public Consultation**

##### Introduction

- 55 As land use plans, the policies of neighbourhood plans comprise part of the development plan and such, they form part of the basis for planning and development control decisions. Given this, legislation requires the production of neighbourhood plans to be supported by public consultation.
- 56 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

##### Todmorden Neighbourhood Plan Consultation

- 57 A Consultation Statement was submitted alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *Regulations*<sup>11</sup>.
- 58 The Consultation Statement addresses these matters in a clear, appropriate and proportionate manner.
- 59 During 2016, initial engagement included four community drop-in sessions followed by online and physical surveys. The drop-in sessions were attended by 150 people and over 300 survey responses were received.
- 60 This was followed by five topic specific community engagement events held during 2017.
- 61 The results of consultation were considered and post-covid, a draft plan was produced and subsequently consulted on between September and November 2023. Consultation was well-publicised and was supported by two drop-in sessions, attended by more than 75 people.

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<sup>11</sup> Neighbourhood Planning (General) Regulations 2012.

- 62 Responses and submissions were duly recorded and helped to inform the submission version of the plan.
- 63 In addition to all of the above I note that throughout the plan-making stages, consultation was supported by, amongst other things, the Town Council website, project group meetings, feedback reports, posters and flyers.
- 64 Taking the Consultation Statement and the above into account, I find that community engagement and public consultation have been demonstrated to have been fundamental to the plan-making process. There were opportunities for people to have a say, people were encouraged to engage with plan-making, and responses and matters raised were duly considered.
- 65 Having regard to all of the above, I am satisfied that the consultation process for the Todmorden Neighbourhood Plan was robust and that it complied with the neighbourhood planning regulations.
- 66 In reaching the above conclusion, I am mindful that a single representation considered that the Neighbourhood Plan was not publicised sufficiently. Whilst I acknowledge this, I find that, whilst there may have been further opportunities to publicise the plan-making process, there is sufficient evidence to demonstrate that the plan-making process was publicised to a reasonable degree and that this was proportionate to the limited resources available to neighbourhood planning.

## **5. The Neighbourhood Plan – Introductory Section**

- 67 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.
- 68 The Neighbourhood Plan appears as an impressive, professionally presented document. The photography is magnificent and serves to add significant interest whilst fully reflecting Todmorden's distinctive qualities.
- 69 The Neighbourhood Plan's introductory sections are highly informative and provide clear and comprehensive background information, providing context to the Policies that follow.
- 70 For clarity and accuracy, I recommend the following changes to the introductory (pre-Policy) section of the Neighbourhood Plan:
1. **Page 5, last line, for clarity change to “...to date *and meets* requirements.”**
  2. **Para 11.2, delete text and replace with: “*The Neighbourhood Area was designated by Calderdale Council on 27 April 2017 (and was subsequently redesignated on 28 November 2022). The designation of the Neighbourhood Area satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).*”**
- 71 NB, for information, whilst a Neighbourhood Forum designation must be renewed after 5 years, there is no such re-designation requirement for a Neighbourhood Area. Whilst I refer to designation dates earlier in this Report, Para 11.2 appears to indicate some kind of requirement for Neighbourhood Areas to be “*extended for a further five years,*” which is not the case. Also, the reference to 2015 in Para 11.2 is incorrect.
3. **Para 11.3, line 2, for clarity and accuracy, change to: “...Council *having regard to relevant statutory provisions and to policy and guidance contained in the National Planning Policy Framework (NPPF) (2023) and Planning Practice Guidance (PPG) published by the Government.*”**



4. Para 1.1.6, for clarity, change to: ***"...Plan by providing detailed neighbourhood-level applications for them - for example..."***
5. Para 1.1.7 has been overtaken by events, for clarity, change to: ***"Todmorden secured £17.5m...proposals."***
6. Para 2.3.3, the Neighbourhood Plan does not allocate any sites for food growing. For accuracy, change to: ***"The Town Council will look, where possible..."***
7. Para 2.5.4, it is not the role of the Neighbourhood Plan "to influence Calderdale MBC" and the imposition of conditions is the responsibility of the Local Planning Authority, change start of paragraph to: ***"The Town Council recognises..."***
8. Para 2.5.4, delete the extra full stop at end of the paragraph
9. Para 2.5.5, for accuracy, change start of the paragraph to: ***"The Neighbourhood Plan promotes flood..."***
10. Para 2.5.8, line 1, for accuracy, change to: ***"The Town Council will..."***
11. Para 2.5.9, line 1, for accuracy, change to: ***"The Town Council will..."***

## **6. The Neighbourhood Plan – Neighbourhood Plan Policies**

- 72 The supporting text to each Neighbourhood Plan Policy includes a reference to “*relevant*” Policies in the Calderdale Local Plan. As well as being unnecessary, as the development plan should be considered as a whole, I am mindful that the references appear subjective – for example, there are numerous examples of where different, non-referenced Calderdale Local Plan Policies could be considered “*relevant*.”
- 73 Whilst the references will have been a helpful guide during the plan-making process – and in addition to the Basic Conditions Statement, provide a useful informative for examination, I consider that their continued inclusion is potentially confusing and that it detracts from the clear and precise nature of the Neighbourhood Plan and its policies.
- 74 I recommend:
- **Delete the “Relevant Calderdale Local Plan policies” reference in the supporting text following each Policy**

### Housing

#### **Policy H.1: Infill Housing**

- 75 Chapter 5 of the National Planning Policy Framework (the Framework), “*Delivering a sufficient supply of homes,*” sets out:
- “...the Government’s objective of significantly boosting the supply of homes...”*  
(Paragraph 60, the Framework)
- 76 The Neighbourhood Plan does not allocate any land for residential development and there is no requirement for it to do so.

- 77 The Calderdale Local Plan allocates land for the development of 243 dwellings in Todmorden. It also notes that there are existing planning permissions in the town for 291 dwellings and it sets a windfall target for Todmorden of 122 dwellings.
- 78 In effect, the Neighbourhood Plan should contribute to the achievement of sustainable development by supporting and not preventing or seeking to place any obstacle in the way of the delivery of up-to-date Local Plan allocations or of the delivery of sufficient windfall housing over the plan period.
- 79 Calderdale Council has considered the submitted Neighbourhood Plan and having raised no concerns in this regard, is satisfied that the Neighbourhood Plan is in general conformity with the strategic housing policies of the Calderdale Local Plan.
- 80 Whilst the Neighbourhood Plan does not allocate any land for residential development, Policy H.1 sets out a supportive land use planning framework for the local delivery of windfall housing via the use of infill sites. This positive approach to supporting housing delivery has regard to national policy and is in general conformity with the Calderdale Local Plan. It contributes to the achievement of sustainable development and meets the basic conditions.
- 81 As set out, the Policy includes a reference to other development plan policies. As the development plan is considered as a whole, there is no need to include such a reference, which leads the Policy to appear unnecessarily long-winded and cumbersome. The reference detracts from the concise nature of the Policy and does not have regard to national guidance, which requires planning policies to be clear, concise and precise<sup>12</sup>:

*“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*

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<sup>12</sup> Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

82 Taking this into account, I recommend:

- **Policy H.1, delete “where the proposal complies with other relevant development policies.”**
- **Para 3.1.4, change to: “...or loan. *13.8% of homes are socially rented. 18.3% of...*”**  
**(Calderdale Council has pointed out that it is not a stock-holding authority and consequently, homes are not rented from the local authority)**

**Policy H.2: Housing Mix**

- 83 National planning policy, in Paragraph 60 of the Framework, supports the delivery of:

*"...an appropriate mix of housing types for the local community."*

- 84 Further, Calderdale Local Plan Policy HS3 ("*Housing Mix*") supports the delivery of a mix of types, sizes and tenures of housing, informed by relevant and recent information.

- 85 In general terms, Policy H.2 seeks to ensure that new housing provides for a mix of housing types, with "*particular provision*" for smaller households. However, the wording of the Policy is vague. The Policy does not set out what this "*particular provision*" should comprise and nor does it set out what "*an appropriate mix of dwelling types*" should be.

- 86 The supporting text to the Policy refers to local information, but this sets out extremely precise requirements for new housing provision without evidence to demonstrate deliverability. Paragraph 16 of the Framework requires plans:

*"...to be aspirational but deliverable."*

- 87 However, notwithstanding this, I am mindful that the overall intention of the supporting text is to provide background information and that information has been provided to demonstrate that there is local evidence of a need for smaller dwellings. Given this and taking the above into account, the provision of such local information has regard to national policy.

- 88 As set out, Policy H.2 refers to "*all new housing*." However, noting that a considerable proportion of new housing development in Todmorden will arise from windfall development and that such sites are likely to be small – for example, taking account of Policy H.1, infill sites are likely to range from 1 to 5 dwellings – it is not clear how all new housing development can provide for a mix of dwelling types.

- 89 Helpfully in this respect, the Qualifying Body has confirmed that the Policy is intended to relate to major development – for sites of at least ten dwellings.

- 90 Part of the supporting text is written as though it comprises policy requirements, which it does not and it includes a vague reference to *"longer term residents,"* without reference to the Policy.
- 91 Taking this and all of the above into account, I recommend:
1. **Policy H.2, change wording to: *"New housing development of ten or more dwellings must have regard to up-to-date local housing needs assessments and comprise a mix of dwelling types, to include smaller 2 bedroomed homes."***
  2. **Paragraph 4.2.2, delete the second and last sentences and replace with: *"Policy H.2 requires new development to respond to locally identified needs and in particular, it supports the provision of two bedroomed homes."***

### **Policy H.3: Housing Design**

- 92 National policy, in Chapter 12 of the Framework, *“Achieving well-designed and beautiful places,”* recognises the importance of identifying the special qualities of a place and notes that:

*“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.”*

(Paragraph 131, the Framework)

- 93 The Framework goes on to note that:

*“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

(Paragraph 131, the Framework)

- 94 National policy also recognises the crucial role of Neighbourhood Plans in designing policies that reflect local aspirations and that are *“grounded”* in local knowledge and understanding:

*“Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development, both through their own plans and by engaging in the production of design policy, guidance and codes...”*

(Paragraph 132, The Framework)

- 95 Calderdale Local Plan Policy BT1 (*“High Quality Inclusive Design”*) requires development to respect its surroundings and demonstrate a holistic approach to design quality.

- 96 Policy H.3 seeks to ensure that new development respects local character and in this way, it has regard to national policy and is in general conformity with local strategic policy.

- 97 As set out, the Policy requires housing development to enhance its setting. In the absence of any evidence, it is not clear how development might achieve this – for example, in many circumstances the setting of a development will be located outside of the development area and may be within third party ownership.

- 98 The Policy goes on to require development to be “*consistent*” with the surrounding context. However, in the absence of evidence to demonstrate that the whole of Todmorden’s built context is of high quality design, such an approach may inadvertently result in a requirement for development to be consistent with poor quality adjacent development and this introduces the potential for the Policy to conflict with its own aims.
- 99 National planning policy for heritage is provided in Chapter 16 of the Framework, “*Conserving and enhancing the historic environment.*” This sets out a careful and nuanced approach to protecting the nation’s built heritage.
- 100 Policy H.3 introduces a different approach to heritage, simply requiring development in Conservation Areas to have regard to local character; and goes on to require development in a Conservation Area to demonstrate how it contributes to preserving Todmorden’s character (as opposed to the Conservation Area).
- 101 This approach differs significantly from national policy, which requires heritage assets to be conserved in a manner appropriate to their significance. It results in conflict with the Framework without clear justification and this is addressed in the recommendations below.
- 102 I note that the Todmorden Design Handbook provides local design guidance and that it is appropriate for development proposals to have regard to this. However, there is no need for the Policy to refer to District-wide guidance which is beyond the control of the Neighbourhood Plan. Also, the Neighbourhood Plan cannot seek to control planning application requirements – these are set out in statute and by the Local Planning Authority – and this is taken into account in the recommendations.
- 103 Taking all of the above into account, I recommend:
1. **Policy H.3, from line 3, change to “...respectful of *Todmorden’s distinctive local character and is sensitive to the wider landscape.*”**
  2. **Policy H.3, second para, change to: “...treatments *must respect the surrounding context.*”**



3. Policy H.3, delete third para and replace with: ***“Development proposals within the Conservation Areas must conserve heritage assets in a manner appropriate to their significance.”***
4. Policy H.3, delete last para and replace with: ***“Development proposals should have regard to the Todmorden Design Guide.”***

**Policy H.4: Innovative Housing**

104 As noted earlier in this Report, national policy seeks to boost the supply of housing. In doing so, Paragraph 60 of the Framework supports the delivery of new housing that meets:

*"...the needs of groups with specific housing requirements..."*

105 Policy H.4 presents a supportive land use planning policy framework for innovative forms of residential development, having regard to national policy.

106 Calderdale Local Plan Policy BT1 (*"High Quality Inclusive Design"*) requires development to take account of flooding and Policy H4 is in general conformity with this.

107 As worded, the Policy states that the types of development supported are also *"encouraged."* There is no information to demonstrate how the Policy delivers encouragement and consequently, this part of the Policy does not have regard to Paragraph 16 of the Framework's requirement for plans to be deliverable.

108 I recommend:

- 1. Policy H.4, last line, delete "and are encouraged"**

**Policy H.5: Reuse and Conversion**

109 Calderdale Local Plan Policy HW3 (*"Wellbeing"*) strongly encourages the reuse of brownfield land.

110 Chapter 11 of the Framework, *"Making effective use of land,"* requires planning policies to:

*"...give substantial weight to the value of using suitable brownfield land within settlements for homes..."*

(Paragraph 124, the Framework)

111 Policy H.5 supports the reuse and conversion of existing buildings and in this way, it is in general conformity with local strategic policy and has regard to national policy.

112 The Policy goes on to set out a requirement for development to meet standards that are not the responsibility of the Neighbourhood Plan and which in any case, apply across Calderdale, including the Neighbourhood Area. However, I note that the second part of the Policy seeks to ensure the consideration of matters relating to parking and highway safety in respect of larger scale development and this is taken into account in the recommendations below.

113 I recommend:

1. Policy H.5, line 3, delete "encouraged and will be"
2. Policy H.5, delete second sentence and replace with:  
*"Development should provide for parking and in the case of the residential reuse or conversion of large buildings, including mills, this should be in the form of basement parking wherever feasible."*

**Policy H.6: Sustainable Homes**

- 114 Chapter 14 of the Framework, "*Meeting the challenge of climate change, flooding and coastal change*," requires the planning system to support the transition to a low carbon future.
- 115 Calderdale Local Plan Policy CC1 ("*Climate Change*") requires development to demonstrate mitigation and adaptation measures to address the predicted impacts of climate change.
- 116 Policy H.6 is intended to support technologies and techniques that will help reduce carbon emissions and in this way, it meets the basic conditions.
- 117 As set out, the Policy states that developments "*are encouraged*" to meet standards, but no indication of how the Policy does this is provided.
- 118 Noting the above and the clear intention of Policy H.6, I recommend:
1. **Policy H.6, delete wording and replace with: "*The use of sustainable construction methods, including the use of on-site renewable energy provision such as PV panels and air source heat pumps and achieving high energy and water efficiency standards will be supported.*"**

**Policy H.7: Inclusive and Accessible Homes**

119 As noted earlier in this Report, Paragraph 60 of the Framework supports the delivery of new housing that meets:

*"...the needs of groups with specific housing requirements..."*

120 Policy H.7 supports the delivery of inclusive and accessible homes and in so doing, it has regard to national policy and meets the basic conditions.

121 As presented, the Policy could be read as being unsupportive of any residential development that does not include inclusive and accessible homes. There is no evidence to demonstrate that every residential development – including for example, the development of a single dwelling, can provide for enhanced accessibility and adaptability standards and neither is this a requirement of national or local strategic planning policy.

122 I also note that the Building Regulations are separate from planning policy and are subject to change and taking this and the above into account, I recommend:

1. **Policy H.7, delete wording and replace with: *"The development of housing in places close to facilities and public transport and which meets enhanced accessibility and adaptability standards and/or the needs of people with dementia and other invisible disabilities will be supported."***

**Policy H.8: Sustainable Drainage Systems (SuDS)**

- 123 Flooding is a significant issue in Todmorden, where floods in recent years have severely damaged homes and businesses.
- 124 Policy H.8 requires development to incorporate sustainable drainage systems (SuDS) to help mitigate and alleviate flooding and flood risk.
- 125 National Policy, set out in Paragraphs 173 and 175, requires that development in areas at risk of flooding and major development (for example, developments of ten or more dwellings) incorporates SuDS.
- 126 Whilst significant parts of the Neighbourhood Area are located in areas at risk of flooding, other parts are not and there is no evidence to demonstrate that all development everywhere in the Neighbourhood Area, regardless of flood risk, should include SuDS.
- 127 Also, it is not clear in the absence of evidence, that it would be appropriate in every circumstance for SuDS to be retrofitted to any previously permitted development, as supported by the Policy.
- 128 However, the intentions of the Policy are clear and in general, it meets the basic conditions.
- 129 Taking all of this into account, I recommend:

1. **Policy H.8, change the first paragraph to: “*All major development in the Neighbourhood Area and development in areas at risk of flooding should include sustainable...runoff. Proposals should demonstrate...environment. The retrofitting of SuDS to existing development will be supported where this has regard to local character and the amenity of neighbours.*”**
2. **Policy H.8, change the last sentence to: “*Development proposals should take account of best practice and examples provided in the Todmorden Design Guide.*”**

**Policy H.9: Community Housing**

130 The provisions of Policy H.9 largely repeat those of Policy H.4. As such, the Policy is repetitive and unnecessary.

131 Noting the above, Policy H.9 detracts from the clarity and concise nature of the Neighbourhood Plan and I recommend:

- **Delete Policy H.9 and supporting text**

## Local Economic Development

### Policy ED.1: Reuse of Space

- 132 As noted earlier in this Report, Calderdale Local Plan Policy HW3 (*"Wellbeing"*) strongly encourages the reuse of brownfield land and Chapter 11 of the Framework, in promoting the effective use of land, supports the reuse of existing buildings.
- 133 Further to the above, Paragraph 88 of the Framework requires planning policies to enable:
- "...the sustainable growth and expansion of all types of businesses in rural areas...through conversion of existing buildings..."*
- 134 In general terms, Policy ED.1 supports the conversion of buildings for business use and in this way, it meets the basic conditions.
- 135 As presented, the Policy affords wide-ranging support for the conversion of any building in the Neighbourhood Area to business use. There is no evidence to demonstrate that this would necessarily be appropriate in all circumstances – for example, the conversion of a house within a residential estate.
- 136 The Qualifying Body has since clarified that the intention of Policy ED.1 is to encourage the reuse of redundant buildings.
- 137 Taking this and the above into account, I recommend:
- **Policy ED.1, change to: *"The reuse of redundant buildings for workspaces, studios and places for economic activity will be supported where development has regard to local character, residential amenity and highway safety."***



**Policy ED.2: Innovative Working**

138 Chapter 6 of the Framework, *"Building a strong, competitive economy,"* states that significant weight should be placed on:

*"...the need to support economic growth and productivity..."*  
(Paragraph 85, the Framework)

139 The same Chapter goes on to require planning policies to make:

*"...provision for clusters or networks of knowledge and data-driven, creative or high technology industries..."*  
(Paragraph 87, the Framework)

140 In general terms, Policy ED.2 seeks to set out a supportive land use planning framework for the development of various employment uses, including space for high tech and creative businesses. In this way, the Policy meets the basic conditions.

141 As presented, Policy ED.2 sets out requirements for business employment models, which are beyond the scope of land use planning controls. This is a matter addressed in the recommendations below.

142 Taking all of the above into account, I recommend:

1. **Policy ED.2, delete text and replace with: *"Development providing high tech, creative and climate-related technology business uses; and/or managed workspaces, locally-based co-operative businesses and day care facilities, will be supported where these have regard to local character, residential amenity and highway safety."***

**Policy ED.3: Home Working**

- 143 Home working is now common practice. It takes place in all kinds of ways, utilising available space in homes and gardens.
- 144 Policy ED.3. seeks to impose a new requirement for all applications for housing development to demonstrate how they support and facilitate homeworking.
- 145 Planning application requirements are legislated nationally and at the local level, by the Local Planning Authority, in this case, Calderdale Council. The Neighbourhood Plan cannot impose planning application requirements.
- 146 Notwithstanding this, given the flexibility and limited planning controls around home working, it is not clear, in the absence of any evidence, how such a requirement might be defined, implemented and controlled.
- 147 Whilst I acknowledge reference in the supporting text to existing room sizes, the Policy does not seek to address room sizes and even if it did, there is no supporting evidence detailing or justifying the imposition of minimum room sizes, or determining how householders should use their homes.
- 148 I recommend:

**1 Delete Policy ED.3 and supporting text**

- 149 I note that the above recommendation is not intended to and does not, seek to prevent or preclude home working in any way.
- 150 I acknowledge the Qualifying Body's representation that Policy ED.3 repeats a Policy in a different Neighbourhood Plan. However, it is the Todmorden Neighbourhood Plan that is the subject of this examination and this is the case regardless of whether or not another Policy in a different Neighbourhood Plan is drafted in a way that meets the basic conditions.

**Policy ED.4: Visitor Accommodation**

- 151 Policy ED.4 promotes and supports tourism in the Neighbourhood Area and does so in a manner which has regard to local character, amenity and highway safety.
- 152 In this way, the Policy contributes to the achievement of sustainable development and meets the basic conditions.
- 153 No changes are recommended.

**Policy ED.5: Retail**

154 Paragraph 96 of the Framework states that:

*"Planning policies and decisions should aim to achieve healthy, inclusive and safe places..."*

155 Further, Paragraph 97 of the Framework goes on to require planning policies and decisions to:

*"...plan positively for the provision and use of...community facilities (such as local shops...to enhance the sustainability of communities and residential environments (and) ensure that established shops, facilities and services are able to develop and modernise."*

156 Calderdale Local Plan Policy RT2 seeks to prevent the loss of retail floorspace where this would be harmful to the vitality of town centres.

157 Policy ED.5 seeks to prevent the loss of retail facilities unless it is demonstrably unviable to do so. In this way, the Policy has regard to national policy and is in general conformity with local strategic policy and meets the basic conditions.

158 As set out, the Policy refers to and is reliant upon another development plan policy. This comprises an unnecessary cross-reference, as the development plan should be considered as a whole.

159 I recommend:

- 1 Policy ED.5, delete "a) They incorporate...policies; or" (note that the subsequent two paras will consequently change from b) and c) to "a)" and "b)")**

**Policy ED.6: Light Industry**

160 National policy requires planning policies to:

*"...help create the conditions in which businesses can invest, expand and adapt."*

(Paragraph 85, the Framework)

161 Policy ED.6 states that it protects all land used for offices, manufacturing and light industry. Such an approach conflicts, without justification, with Permitted Development Rights, which can provide for the appropriate change of use of such land.

162 The Policy goes on to support the conversion of employment uses to employment uses, which makes little sense in the absence of further detail and includes a vague reference to supporting additional workspace, without any indication of where or the basis on which such development might be supported. This part of the Policy does not provide a decision maker with clarity, having regard to Paragraph 16 which requires that planning policies:

*"...are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;"*

163 In making the recommendation below, I note that in any case Policy ED.2 of the Neighbourhood Plan already provides support for the type of development that Policy ED.6 seeks to support.

164 Taking the above into account, I recommend:

**1 Delete Policy ED.6 and supporting text**

**Policy ED.7: High-Speed Broadband**

165 Chapter 10 of the Framework, *“Supporting high quality communications,”* recognises that the provision of advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being.

166 Paragraph 118 of the Framework states that:

*“Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.”*

167 Calderdale Local Plan Policy IM6 (*“Telecommunications and Broadband”*) requires all new development to facilitate provision of high-speed broadband where feasible.

168 Policy ED.7 supports the provision of high-speed broadband and improved communications connectivity and in this way, it meets the basic conditions.

169 As worded, the Policy would support any form of development that results in help to provide improved connectivity. Such an approach offers wide-ranging support for any form of development, so long as it includes support for improved connectivity and this runs the risk of the Neighbourhood Plan inadvertently supporting inappropriate forms of development.

170 For clarity and precision, I recommend:

- 1 **Policy ED.7, change second sentence to: *“The development of additional or improved connectivity infrastructure for the town will be supported.”***

Natural Environment

**Policy NE.1: Millponds, Dams and Attenuation Ponds**

- 171 The first part of Policy NE.1 promotes the restoration and/or creation of millponds, dams and attenuation ponds.
- 172 This has regard to Chapter 14 of the Framework, "*Meeting the challenge of climate change, flooding and coastal change*," which seeks to minimise flood risk.
- 173 Management of catchment areas for public water supply is a matter beyond the control and responsibilities of the Neighbourhood Plan.
- 174 I recommend:

3. Policy NE.1, first sentence, delete: "*and are encouraged*"
4. Policy NE.1, delete second paragraph ("Development proposals...mitigation measures.")

**Policy NE.2: Local Green Space**

- 175 Local communities can identify areas of green space that are of particular importance to them for special protection. Paragraph 105 of the Framework states that:

*“The designation of land as a Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them.”*

- 176 Paragraph 103, of the Framework requires policies for the managing of development within a Local Green Space to be consistent with those for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land. Consequently, Local Green Space comprises a restrictive and significant policy designation.
- 177 Given the importance of the designation, Local Green Space boundaries should be clearly identifiable within the Neighbourhood Plan. Policy NE.2 designates 11 areas of Local Green Space and clear plans, showing each Local Green Space, are provided on pages 50 and 51 of the Neighbourhood Plan. However, the plan for LGS11 on page 51 of the Neighbourhood Plan is incorrect – it repeats the plan for LGS8, rather than the appropriate plan (which is present and correct in the appendices).
- 178 The Local Green Space tests set out in the Framework are that the green space is in reasonably close proximity to the community it serves; that it is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and that it is local in character and is not an extensive tract of land.
- 179 The designation of the proposed areas of Local Green Space is supported by a detailed site-by-site analysis provided in the appendices. Taking this and my own observations into account, I am satisfied that each proposed Local Green Space designation meets the appropriate national policy tests referred to above.
- 180 National policy is explicit in respect of requiring policies for managing development within a Local Green Space to be consistent with those for Green Belts. National Green Belt policy is precise.



- 181 The Policy wording provided in Policy NE.2 is not consistent with policies for managing development in Green Belts and this is a matter that is addressed in the recommendations set out below.
- 182 Part of the supporting text to Policy NE.2 is written as though it comprises Policy requirements, which it does not.
- 183 A single representation has been received stating that three of the areas of Local Green Space have potential to comprise infill sites under Policy H.1. Whilst this may be the case, there is nothing before me to demonstrate that designating the sites as Local Green Space will place an obstacle in the way of the Neighbourhood Plan contributing to the achievement of sustainable development and as noted above, the designations meet the relevant national policy tests.
- 184 I recommend:
- 1 **Policy NE.2, delete opening paragraph ("The following...wildlife.") and replace with: *"The following sites, identified on the plans below, are designated as Local Green Space and will be protected from development in a manner consistent with the protection of land within the Green Belt:"***
  - 2 **Policy NE.2, delete last paragraph ("The enhancement...encouraged.")**
  - 3 **Delete Paras 6.2.2 and 6.2.3**
  - 4 **Para 6.2.4, change first sentence to: *"The Local Green Space designation should only be used:"***
  - 5 **Para 6.2.5, change first line to: *"These areas of Local Green Space have been..."***
  - 6 **Replace the plan for LGS11 with the correct plan from the appendices (page 117)**

**Policy NE.3: Green Infrastructure**

185 The Framework requires planning policies to contribute to and enhance the natural environment by:

*"...minimising impacts on and providing net gains for biodiversity..."*  
(Paragraph 180, the Framework)

186 Calderdale Local Plan Policy GN.1 ("*Green Infrastructure Provision*") seeks to secure green infrastructure provision across Calderdale.

187 In general terms, Policy NE.3 supports the creation and protection of green infrastructure. As worded, the Policy is founded upon the phrase "*strongly encouraged*." In the absence of a definition of "*strongly*" and no indication of how the Policy will encourage something to happen, this results in a vague and imprecise Policy, contrary to National Planning Guidance, referred to earlier in this Report.

188 The Policy also includes references to a preference and to enhancement, without any indication of how these things might be delivered or controlled.

189 Taking the above into account, I recommend:

1. **Policy NE.3, change first sentence to: "*The provision of green infrastructure, including that which connects with the existing Wildlife Habitat Network and/or Local Wildlife Sites will be supported.*"**
2. **Policy NE.3, delete remaining text and replace with: "*Development should achieve biodiversity net gain and should not sever existing...Networks. The development of green infrastructure should enable the free movement of wildlife including, for example, hedgehog gaps and boxes for bats birds and insects. The development of green infrastructure should also respect local character and distinctiveness, having regard to habitats and local landscapes. New planting should take account of the potential for benefits to pollinators and wildlife.*"**

## Town Centre

### **Policy TC.1: Shop Front Design**

- 190 Calderdale Local Plan Policy BT1 (*"High Quality Inclusive Design"*) supports design that takes account of and does not harm, local distinctiveness and Calderdale Local Plan Policy RT5 (*"General Town Centre Principles"*) seeks to ensure that development makes a positive contribution to distinctiveness and a unique sense of place.
- 191 Policy TC.1 requires the development of shop frontages to complement the facades of buildings in which they are located, as well as respond positively to adjacent properties. In this way, the Policy provides a land use policy framework that responds positively to Todmorden's unique qualities and is in general conformity with local strategic policy.
- 192 As presented, Policy TC.1 focuses upon the planning application requirements and as noted earlier in this Report, this is a matter for which the Local Planning Authority is responsible.
- 193 Taking this and the above into account, I recommend:
- 1 Policy TC.1, change wording of Policy to: *"New shop frontages should complement the design of existing building façades and relate well to adjacent properties, having regard to the Todmorden Design Handbook."***

**Policy TC.2: Pedestrian Routes**

194 Paragraph 104 of the Framework requires planning policies and decisions to protect and enhance public rights of way and Paragraph 116 of the Framework states that development should:

*"...create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles..."*

195 Policy TC.2 supports the pedestrianisation of areas within the town centre where this provides a more pedestrian-friendly environment, having regard to national policy.

196 The Policy also seeks to enhance connectivity between the town centre and wider countryside, albeit this part of the Policy appears ambiguous in that it does not reflect the focus on non-vehicular movements referred to in the supporting text and includes a vague, undefined reference to encouraging sensitive signage.

197 I recommend:

- 1 Policy TC.2, change first sentence to: ***"Pedestrianisation within the town centre, where this would provide a more pedestrian-friendly environment, will be supported."***
- 2 Policy TC.2, change second sentence to: ***"New and/or improved public rights of way between the town centre and wider countryside will be supported."***

**Policy TC.3: Public Realm**

198 As noted earlier in this Report, Calderdale Local Plan Policy BT1 (*"High Quality Inclusive Design"*) supports design that takes account of and does not harm, local distinctiveness and Calderdale Local Plan Policy RT5 (*"General Town Centre Principles"*) seeks to ensure that development makes a positive contribution to distinctiveness and a unique sense of place.

199 Policy TC.3 supports improvements to the public realm and this is in general conformity with local strategic policy.

200 For clarity and precision, I recommend:

- 1 Policy TC.3, change to: *"The development of public realm improvements around key...will be supported."***

**Policy TC.4: Markets**

- 201 Policy TC.4 is concerned with the quality and offer of Todmorden's markets. This is not a land use planning policy.
- 202 The Qualifying Body has stated that it would like a Policy to support the improvement of infrastructure and appearance of the indoor and outdoor markets. However, this could relate to various things, including management and maintenance and there is no detailed information before me in this regard setting out a deliverable land use planning policy.
- 203 Whilst I fully acknowledge the importance of the markets, I am unable as Examiner, to draft a new Policy to reflect the above.
- 204 I recommend:

**1 Delete Policy TC.4 and supporting text**

Canal and Riverside

**Policy CR.1: Canal and Riverside**

- 205 Policy CR.1 sets out support for any form of development which improves the undefined “*setting*” of Todmorden’s canal and riverside – including amenity, access and the public realm. It goes on to refer to opportunities to open up areas for recreation.
- 206 This results in an exceptionally vague policy, which being ambiguous and imprecise, fails to meet the basic conditions.
- 207 The Neighbourhood Plan does recognise the importance of the canal and riverside to the Neighbourhood Area and Paragraph 104 of the Framework, states that planning policies:
- “...should protect and enhance public rights of way and access...”*
- 208 Further, Chapter 8 of the Framework, “*Promoting healthy and safe communities,*” supports the provision of a network of high quality open spaces and opportunities for recreation.
- 209 Noting this and the above, I recommend:

- 1 Policy CR.1, change to: “*Improvements to public rights of way and to the public realm around Todmorden’s canal and riverside areas will be supported.*”**

Transport, Accessibility and Movement

**Policy TM.1: Walking and Cycling Networks**

- 210 Whilst to some degree Policy TM.1, in respect of improving walking networks in particular, overlaps with some of the provisions of earlier Policies in the Neighbourhood Plan, it serves to provide an all-embracing active movement policy, which has regard to Paragraph 104 of the Framework, referred to earlier in this Report.
- 211 As set out, in the absence of evidence demonstrating that it would be deliverable for all development to meet its requirements, the Policy is unduly onerous. There is no evidence, for example, to demonstrate that all development can link with existing cycle routes and there is no information to demonstrate when it would be necessary (or deliverable) for all development to enhance the network. This addressed in the recommendations below.
- 212 I recommend:
- 1 **Policy TM.1, change wording to: “*The enhancement of the Neighbourhood Area’s walking and cycling routes will be supported.*”**



**Policy TM.2: Movement and Access**

213 The first part of Policy TM.2 "*encourages*" development to meet undefined standards. This part of the Policy is unduly vague and does not meet the basic conditions.

214 The final part of Policy TM.2 refers to encouraging something, without any indication of how the Neighbourhood Plan might deliver it and taken as a whole, the Policy does not set out land use planning policy requirements.

215 I recommend:

**1 Delete Policy TM.2 and supporting text**

**Policy TM.3: EV Charging Points**

216 Chapter 14 of the Framework, "*Meeting the challenge of climate change, flooding and coastal change*," requires the planning system to support the transition to a low carbon future.

217 Calderdale Local Plan Policy CC1 ("*Climate Change*") requires development to demonstrate mitigation and adaptation measures to address the predicted impacts of climate change.

218 In general terms, Policy TM.3's requirement for the provision of EV charging points meets the basic conditions.

219 As worded, the Policy requires all forms of development to provide EV charging points, without evidence to demonstrate that such a requirement would be relevant, or even deliverable, for all forms of development. Consequently, there is nothing to lead me to conclude that this part of the Policy has regard to Paragraph 57 which sets out the national policy tests for planning obligations, which must be:

*"...necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development."*

220 In addition to the above, no indication is provided of when it might be "*suitable*" for EV charging points to be provided "*in*" (taken as meaning adjacent to or outside of) existing buildings and public spaces and consequently, this part of the Policy is vague and does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.

221 I recommend:

- 1 Policy TM.3, change to: "*New housing should provide EV charging points. The development of new EV charging points that have regard to the character of their surroundings, residential amenity and highway safety will be supported.*"**

- 2 **Para 9.3.1 delete “The preferred location of these is outside of the property.”**

**This is a confusing reference as it appears to mix up the meanings of property and dwelling – there is no information to indicate how an EV charger might be provided on say third party property (and it would also be unusual for an EV charger to be located inside a dwelling).**

## Heritage

### Policy HG.1: Heritage

- 222 Todmorden has an exceptional wealth of built heritage.
- 223 National planning policy, as set out in Chapter 16 of the Framework, *"Conserving and enhancing the historic environment,"* requires the nation's heritage assets to be conserved in a manner appropriate to their significance.
- 224 The Framework goes on to require plans to set out a positive strategy for the conservation and enjoyment of the historic environment and to take opportunities to draw on the contribution made by the historic environment to the character of a place.
- 225 National policy recognises the importance of non-designated heritage assets. In doing so, it distinguishes between how development proposals affecting designated and non-designated heritage assets should be considered.
- 226 In respect of non-designated heritage assets, Paragraph 209 of the Framework states:
- "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required, having regard to the scale of any harm or loss and the significance of the heritage asset."*
- 227 Calderdale Local Plan Policy HE.1 (*"Historic Environment"*) recognises this and provides detail in respect of application requirements for development proposals affecting heritage assets.
- 228 The main aim of Policy HG.1 is to identify the Neighbourhood Area's non-designated heritage assets, of which there are many. The Policy identifies 203 non-designated heritage assets, each of which has emerged through a robust methodology. This is set out within the appendices to the Neighbourhood Plan along with relevant criteria and assessments.

- 229 The identification of the Neighbourhood Area's non-designated heritage assets comprises a significant achievement and forms a fundamentally important part of the Neighbourhood Plan.
- 230 I am mindful that new non-designated heritage assets may be identified during the plan period and consequently, the list in Policy HG.1 is not necessarily exhaustive. I recommend a reference to this, by way of an asterisk and related information in parenthesis below the main Policy wording, as set out below.
- 231 The first three paragraphs of Policy HG.1 introduce various requirements that conflict with national policy, as set out in Chapter 16 of the Framework and the this is addressed in the recommendations below.
- 232 I recommend:
- 1 **Policy HG.1, delete the text before the designations ("The following...modern standards.") and replace with:**  
***"Todmorden's non-designated heritage assets, as listed below\*, will be conserved in a manner appropriate to their significance.***  
  
***(\* The list of non-designated heritage assets is not exhaustive. Further non-designated heritage assets may be identified following further historical research)"***

**Policy HG.2: Key Views**

233 In general terms, Policy HG.2 seeks to ensure that development respects important views and character areas. Such an approach has regard to Paragraph 135 of the Framework, which requires developments to be:

*"...sympathetic to local character and history, including the surrounding built environment and landscape setting..."*

234 As presented, the Policy opens with a somewhat onerous, albeit vague, requirement for identified views to be *"retained."* However, whereas retention of a view suggests no change at all, this is not what the Policy goes on to seek to achieve.

235 Rather, the overall intention of the Policy is to ensure that development does not detract from the identified, locally valued views, but is designed to be respectful of their visual quality.

236 The Policy goes on to set out an application requirement beyond the scope of the Neighbourhood Plan. Notwithstanding this, I am mindful that a requirement to identify *"any impact"* a proposal *"may have"* on a view, presents significant scope for wide-ranging subjectivity, both by applicant and decision-maker.

237 Views can change hourly to seasonally and one person's interpretation of a view might be significantly different to another's. Consequently, this part of the Neighbourhood Plan does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.

238 Taking account of all of the above, I recommend:

- 1 Policy HG.2, delete the opening two paragraphs and replace with: *"Development must take account of and respect the visual quality of the key views listed below and identified on the following plan and photographs."***

Community, Culture and Recreation

**Policy CCR.1: Community, Social and Cultural Facilities**

239 In order to provide the social, recreational and cultural services and facilities that communities need, the Framework requires planning policies to:

*"...ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community."*  
(Paragraph 93, the Framework)

240 Calderdale Local Plan Policy HW3 ("*Wellbeing*") supports the provision of a network of facilities to meet the needs of the local community.

241 Policy CCR.1 supports the provision of community, social and cultural facilities in Todmorden and in this way, it meets the basic conditions.

242 As worded, the Policy supports proposals that provide facilities, rather than directly supports the provision of the facilities themselves. This could inadvertently give rise to support for inappropriate forms of development that happen to also provide community facilities and this is a matter addressed in the recommendations below.

243 I recommend:

- 1 **Policy CC.1, change the opening sentence to: "*The development of new community, social...rural area, including new development and the redevelopment...buildings will be supported. This...*"**
- 2 **Para 11.1.2, line 6, change to: "*...enjoy. The Policy supports the provision of new and/or improved facilities for youth to enjoy. Todmorden...*"**  
(Supporting text is worded as a Policy)

**Policy CC.2: Food Growing**

244 Calderdale Local Plan Policy HW3 (“Wellbeing”) promotes:

*“...the role of communal growing spaces including allotments, garden plots within developments, small scale agriculture and farmers’ markets in providing access to healthy, affordable, locally produced food options.”*

245 Policy CC.2 supports provision for communal food growing and is in general conformity with the strategic policies of the Local Plan.

246 As set out, the Policy appears ambiguous due to references to “where appropriate” and “will be encouraged.” No sites are allocated for communal food growing and no indication is provided of when it would be appropriate, or deliverable, for new developments to include provision for such. This is a matter addressed in the recommendations below.

247 I recommend:

- 1 **Policy CC.2, change wording to: “*The development of community allotments, orchards and/or sites for communal food growing in publicly accessible locations will be supported.*”**



**Policy CC.3: Sport and Recreation**

248 Chapter 8 of the Framework, *"Promoting healthy and safe communities,"* supports the provision of sports facilities and the delivery of local strategies to improve health. It goes on to establish that:

*"...a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature..."*

(Paragraph 102, the Framework)

249 Policy CC.3 supports the provision of new sports and play facilities and has regard to national policy.

250 As set out, the Policy suggests that new sports provision will be encouraged, but it does not indicate how this will be achieved. Also, planning provides for the balanced consideration of harm and benefits and as set out, Policy CC.3 would serve to prevent sports facilities from coming forward, regardless of the scale of benefits, if even minor harm arose.

251 Noting the above, I recommend:

- 1 **Policy CC.3, change wording to: *"...all abilities will be supported. This includes but is not limited...cycle tracks. Proposals must respect wildlife, biodiversity, local character and not result in harm to highway safety."***

**Policy CC.4: Community Energy Schemes**

- 252 Chapter 14 of the Framework, "*Meeting the challenge of climate change, flooding and coastal change*," requires the planning system to support the transition to a low carbon future.
- 253 Calderdale Local Plan Policy CC1 ("*Climate Change*") requires development to demonstrate mitigation and adaptation measures to address the predicted impacts of climate change.
- 254 Policy CC.4 supports the delivery of renewable energy development to help reduce carbon emissions and in this way, it meets the basic conditions.
- 255 As presented, the Policy includes vague references to encouragement, appropriateness and acceptability, without providing detailed information to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.
- 256 I recommend:
- 1 **Policy CC.4, change wording to: "*Proposals for community renewable energy generation, storage and distribution schemes will be supported, subject to development respecting local character, biodiversity and residential amenity.*"**

## **7. The Neighbourhood Plan: Other Matters**

- 257 The recommendations made in this Report will have a subsequent impact on Contents, including Page, Policy and Paragraph numbering.
- 258 The use of Ordnance Survey maps is subject to copyright and where used, this should be acknowledged.
- 259 It would be helpful if page numbers and list of appendices were included in the Contents pages.
- 260 Calderdale Council has pointed out that the plan on page 53 has been updated and it is recommended that this replaces the existing plan.
- 261 The Monitoring and Delivery Chapter should follow on immediately from Chapter 11.0 and be located prior to the appendices.
- 262 Further, the content of the Monitoring and Delivery Chapter is incorrect. The Neighbourhood Plan cannot impose requirements on the Local Planning Authority and monitoring of the Neighbourhood Plan is the responsibility of the Qualifying Body.
- 263 I recommend:
- **Update the Contents, Page, Policy and Paragraph numbering**
  - **Reference OS copyright as appropriate, per Calderdale Council's reference provided in its representation: *"Crown copyright and database right 2024. Ordnance Survey licence number 10023069."***
  - **Add page numbers and list of appendices to Contents pages**
  - **Update plan on page 53**
  - **Move Chapter 6.0 (currently page 119) to follow on from Chapter 11. Re-number as Chapter *"12.0"* and re-number the appendices that follow, as appropriate**

- Delete wording of new Chapter 12.0 and replace with: ***“The Town Council will monitor the Neighbourhood Plan to assess its effects and the effectiveness of its policies. It is anticipated that comprehensive monitoring will take place every five years.*”**

***The Town Council will seek to liaise with Calderdale Council in respect of the monitoring of the Neighbourhood Plan. The Town Council will seek to monitor which policies have been used when determining planning applications, along with the weight afforded to them and any issues around their implementation.”***

## **8. Referendum**

264 I recommend to Calderdale Council that, subject to the recommended modifications, **the Todmorden Neighbourhood Plan should proceed to a Referendum.**

### **Referendum Area**

265 I am required to consider whether the Referendum Area should be extended beyond the Todmorden Neighbourhood Area.

266 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

267 Consequently, I recommend that the Plan should proceed to a Referendum based on the Todmorden Neighbourhood Area which was approved and designated on the 27 April 2017 and redesignated on 28 November 2022.

**Nigel McGurk, October 2024**  
**Erimax Ltd – Land, Planning and Communities**