

**CALDERDALE METROPOLITAN BOROUGH COUNCIL****PLANNING COMMITTEE****WARDS AFFECTED: MORE THAN THREE**

**Date of meeting: 9 January 2024**

**Chief Officer: Director of Regeneration and Strategy.**

**1. SUBJECT OF REPORT**

APPLICATIONS FOR DETERMINATION RE PLANNING PERMISSION, LISTED BUILDING CONSENT/CONSERVATION AREA CONSENT, LOCAL AUTHORITY APPLICATIONS, CROWN APPLICATION OR CONSENT TO FELL PROTECTED TREES

- (i) Executive Summary
- (ii) Individual Applications

**2. INTRODUCTION**

- 2.1** The attached report contains two sections. The first section contains a summarised list of all applications to be considered at the Committee and the time when the application will be heard. Applications for Committee consideration have been identified in accordance with Council Standing Orders and delegations.
- 2.2** The second section comprises individual detailed reports relative to the applications to be considered.
- 2.3** These are set out in a standard format including the details of the application and relevant planning site history, representations/comments received arising from publicity and consultations, the officers assessment and recommendation, with suggested conditions or reasons for refusal, as appropriate.
- 2.4** Where the Committee considers that a decision contrary to the recommendation of the Director of Regeneration and Strategy may be appropriate, then consideration of the application may be deferred for further information.
- 2.5** Where a Legal Agreement is required by the Committee, the resolution will be "Mindful to Permit Subject to a Legal Agreement being completed", combined with a delegation to the Director of Regeneration and Strategy.

### **3. IMPLICATIONS ARISING FROM REPORT**

#### **3.1 Planning Policies**

These are set out separately in each individual application report.

#### **3.2 Sustainability**

Effective planning control uses the basic principle of sustainable development by ensuring that development meets the needs of the present without compromising the ability of future generations to meet their own needs. Through the development control system, the Council can enable environmental damage to be minimised and ensure that resources are used efficiently and waste minimised. Particular sustainability issues will be highlighted in individual reports where appropriate.

#### **3.3 Equal Opportunities**

All applications are considered on their merits having regard to Government guidance, the policies of the Development plan and other factors relevant to planning. This will be done using the Development Control Code of Conduct for officers and members as set out in the Council's Standing Orders.

In the vast majority of cases, planning permission is given for land, not to an individual, and the personal circumstances of the applicant are seldom relevant.

However, the Council has to consider the needs of people with disabilities and their needs are a material planning consideration. Reference will be made to any such issues in the individual application reports, where appropriate.

The Council also seeks to apply good practice guidance published in respect of Race and Planning issues.

#### **3.4 Finance**

A refusal of planning permission can have financial implications for the Council where a subsequent appeal is lodged by the applicant in respect of the decision or if a case of alleged maladministration is referred to the Local Government Ombudsman or a Judicial Review is sought through the Courts.

In all cases indirect staff costs will be incurred in processing any such forms of 'appeal'.

There is no existing budget to cover any direct costs should any such 'appeal' result in 'costs' being awarded against the Council. These would have to be found by way of compensatory savings from elsewhere in the Planning Services budget.

Reference: 6/00/00/CM

Richard Seaman  
For and on behalf of  
Director of Regeneration and Strategy

**FOR FURTHER INFORMATION ON THIS REPORT CONTACT:**

Richard Seaman  
Corporate Lead  
For Planning Services

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**DOCUMENTS USED IN THE PREPARATION OF THIS REPORT:**

1. Planning Application File (numbered as the application show in the report)
2. National Planning Policy and Guidance
3. Calderdale Development Plan(including any associated preparatory documents)
4. Related appeal and court decisions
5. Related planning applications
6. Relevant guideline/good practice documents

**DOCUMENTS ARE AVAILABLE FOR INSPECTION AT:**

[www.calderdale.gov.uk](http://www.calderdale.gov.uk).

**You can access the Council's website at the Council's Customer First offices and Council Libraries.**

**List of Applications at Committee 9 January 2024**

<b>Time &amp; No.</b>	<b>App No.</b>	<b>Location</b>	<b>Proposal</b>	<b>Ward</b>	<b>Page No.</b>
1400	23/00061/FUL	Land Adjacent Owler Mill Bacup Road Todmorden Calderdale	New building for a commercial restoration business and production and storage of off grid power use Class E g iii (Commercial Business and Service) and relocation of access into site.	Todmorden	5 - 30

Time Not Before: 1400

Application No: 23/00061/FUL

Ward: **Todmorden**

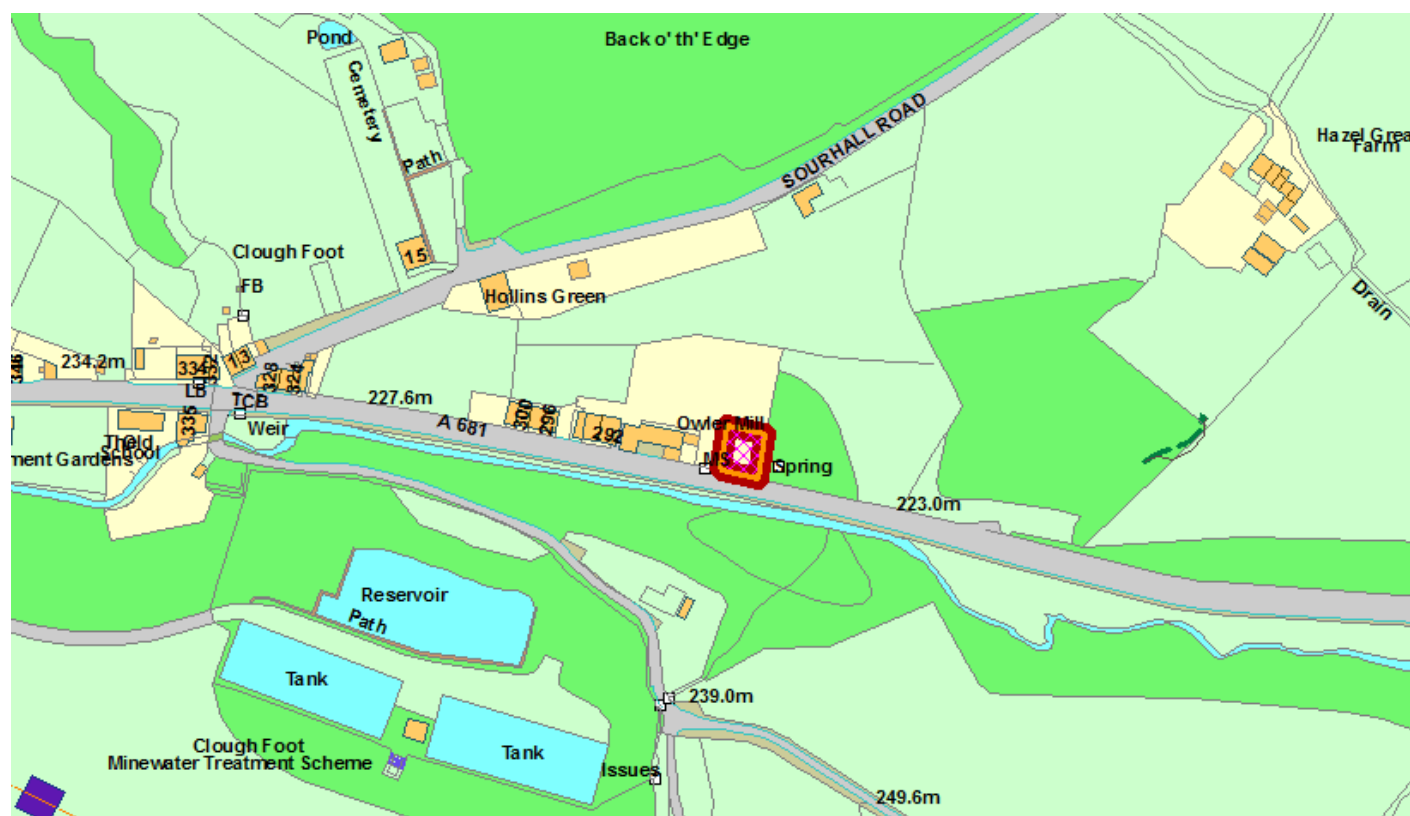
Area Team: **North Team**

Proposal:

**New building for a commercial restoration business and production and storage of off grid power use Class E g iii (Commercial Business and Service) and relocation of access into site.**

Location:

**Land Adjacent Owler Mill Bacup Road Todmorden Calderdale**



Applicant:

**Mr Q Abdul**

Recommendation: **REFUSE**

Parish Council Representations:

N/A

Representations:

Yes

Departure from Development Plan:

No

### Consultations:

Environmental Health Services - Pollution Section (E)  
Highways Section  
Flood Risk Manager  
Highways Section  
Environmental Health Services - Pollution Section (E)  
Flood Risk Manager  
Todmorden Town Council  
Environment Agency (Waste & Water)  
Yorkshire Water Services Ltd (DM)

### **Description of Site and Proposal**

The site is located between Todmorden and Bacup on the A681 Bacup Road and lies within the open countryside. It is designated in the Calderdale Local Plan as being within the Area Around Todmorden, and the Special Landscape Area. The site is located to the east of Owler Mill which is now in residential use apart from a small part of the mill where there is a commercial garage attached. Permission for 'Conversion and ground and first floor extension to existing vehicle repair garage to form a dwelling' was granted in 2022 but has not yet been implemented.

The proposal is for a new building for a commercial restoration business and production and storage of off grid power use Class E g iii (Commercial Business and Service) and relocation of access into site.

The proposed building would have a footprint measuring 16m x 10m and an eaves height of 4.54m at the southernmost elevation and 7.09m to the ridge.

The building would be split internally providing a vehicle repair workshop for vintage cars and a renewable energy generation and battery storage area. There would be two battery banks which would store energy generated by three water propelled turbines.

The building would have a natural stone plinth with timber board cladding above and the roof would be metal sheeting. Access into the workshop would be via a roller shutter door in the west elevation and the storage area would be accessed from the north by a pair of double doors. Four roof lights are proposed in the east and west elevations to provide a total of eight for natural light.

Significant engineering operations have been carried out on the site to excavate the banking to the north and east of Owler Mill to provide a levelled area. A new access has been constructed which resembles that shown on the proposed plans and is now included in the red line. There are currently containers on the site where the proposed building is to be constructed as well as containers to the north of Owler Mill.

**The application has been brought to Planning Committee at the request of Councillor Silvia Dacre.**

The application is accompanied by:

- Heritage Impact Assessment
- Design and Access Statement
- Species Enhancement Statement
- Land Contamination Report included in Design and Access Statement
- Landscape Impact Assessment

### **Relevant Planning History**

Application 08/01590/FUL was refused by the LPA on the 12<sup>th</sup> November 2008 for the Construction of three new dwellings. The decision was appealed and was dismissed on the 3<sup>rd</sup> September 2009.

Application 15/01319/OUT was refused for 2 No three bedroom holiday accommodation (Outline Application) on the 4<sup>th</sup> May 2016.

Application 15/00200/CON was granted permission on the 15<sup>th</sup> May 2015 for the Conversion of Owler Mill including vehicle repair and maintenance garage to provide 1 no. residential unit and partial rebuilding of gable walls. (Part Retrospective).

Application 19/00509/FUL was approved for the Change of use of land to extend domestic garden to facilitate new orangery extension to rear on the 14<sup>th</sup> August 2019.

Application 20/01548/FUL was approved for the Conversion and ground and first floor extension to existing vehicle repair garage to form a dwelling on the 20<sup>th</sup> May 2022.

Investigations are currently on-going regarding the alleged unauthorised development.

### **Key Policy Context:**

<b>Local Plan Designation/Allocation</b>	Area Around Todmorden Special Landscape Area Landscape Character Area (Calder)
<b>Local Plan Policies</b>	<b>GB2</b> Development in the Area Around Todmorden <b>GN4</b> Special Landscape Areas <b>GN4</b> Landscape Character Areas <b>EE2</b> Economic Activity Outside the Main Urban Areas <b>SD1</b> Presumption in Favour of Sustainable Development <b>BT1</b> High quality, inclusive design <b>BT2</b> Privacy, Daylighting and Amenity Space <b>HE1</b> The Historic Environment <b>EN1</b> Pollution Control <b>IM4</b> Sustainable Travel <b>IM5</b> Ensuring Development Supports Sustainable Travel Annex A Car & bicycle parking standards <b>BT4</b> The Design and Layout of Highways and Accesses <b>CC1</b> Climate Change <b>CC2</b> Flood Risk Management (Managing Flood Risk in New Development) <b>CC3</b> Water Resource Management

	<b>CC5</b> Supporting Renewable and Low Carbon Energy <b>CC6</b> Part 1 Assessment of Proposals for Renewable and Low Carbon Energy <b>GN3</b> Natural Environment <b>MS2</b> Mineral Safeguarding Areas
<b>National Planning Policy Framework Chapters</b>	<b>6 Building a strong, competitive economy</b> <b>9 Promoting sustainable transport</b> <b>12 Achieving well-designed places</b> <b>14 Meeting the challenge of climate change, flooding and coastal change</b> <b>15 Conserving and enhancing the natural environment</b> <b>16 Conserving and enhancing the historic environment</b>
<b>Other relevant planning Constraints</b>	Bat Alert Area Non Mains Sewerage Land Contamination Area Low Risk of Historic Mining Hameldon Consultation Zone Sandstone Mineral Safeguarding Area
<b>Other Material Planning Considerations</b>	Climate Emergency Declaration (Jan 2019)

### **Publicity/ Representations:**

The application was publicised by site notice, press notice and two neighbour letters. Two letters of objection, one letter of support from applicant responding to objection and one letter of representation from Councillor Silvia Dacre have been received.

### **Summary of points raised:**

#### **Objection**

- This will have a negative impact on the area
- Industrialising Cloughfoot.
- Increasing road traffic and noise pollution to nearby dwellings from machines
- What kind of off grid electricity is to be produced?
- Are their going to be huge wind turbines erected next to the site or an unsightly solar array?
- Another great super shed constructed in the area, that would in years to come become a residential property
- Why are containers on site?
- The placement of a large industrial building in a largely residential and rural area will have a negative and significantly detrimental impact on the character and appearance of the neighbourhood.
- In an area of stone built residential buildings it will be highly anomalous.
- Within Cloughfold there are a number of buildings of special interest including Hollins Green which is included in the Todmorden Neighbourhood Plan as a non-designated heritage asset.
- Works have already been carried out on the site including the removal of a section of hillside which groundwater appears to be seeping from
- Foundations have been laid
- Building materials have been bought and placed on site
- Placement of a new wall and road opening onto the A681.



- Significant risk of harm as vehicles moving from the new industrial site will have to navigate onto a road which often has vehicles moving at the national speed limit
- Detrimental impact on my garden due to noise and disturbance
- The applicant notes that there will not be any intensification of industrial activity already being undertaken. If there will be no intensification of growth of the activity then a new building is not required.
- The placement of a garage to repair classic cars in this area will render my garden unusable during normal working hours.
- Concerns building will be used outside of normal working
- Existing construction on the site meant I couldn't use my garden
- Houses in the area are not on a mains supply and use spring water. This is a limited supply and a number of houses have noted either a cessation of supply or a very significant reduction in the water available during the summer. Unless this building has a mains supply placement of an industrial building will increase the use of water use and could place a significant strain on a very limited resource.
- Lack of a need for this development, ample vacant industrial units in Todmorden and the surrounding area that could be used
- No details of water based turbine provided
- Supporting information says stone built mill was powered by water, the power generation was historically undertaken on the opposite side of Bacup Road in Midgelden Brook not where the new turbine will be sited.

## Support

Applicant comments in response to objections in italics

- 1. Removal of a section of the hillside and placement of a significant number of concrete blocks as a retaining wall creating a very substantive artificial cliff face - with a substantial area from which groundwater seems to be seeping.
- *This work was carried out several years ago in conjunction with a previous permitted application and has no relevance to this application.*
- 2. Placement of two large shipping containers used as buildings
- *We are unsure of the relevance of this comment and seek clarification on what type of building use is being insinuated. They are currently in use for short term storage and as we understand in no breach of planning regulation.*
- 3. I understand foundations have been laid
- *No foundations have been laid, please clarify how you have come to this understanding.*
- 5. Placement of a new wall and road opening onto the A681 (a road with a national speed limit). There is significant risk of harm as vehicles moving from the new industrial site will have to navigate onto a road which often has vehicles moving at the national speed limit and often above this limit.
- *There is NO NEW WALL, sections of the existing drystone wall have been repaired and reinstated in line with suggestions made by the planning department on a previous application. Records show the opening onto the A681 has existed as early as 1860 and been in continuous use since 1960, This opening has been conscientiously*

*relocated to significantly reduce the risk to all road users, again in line with suggestions made in a previous application.*

### **Ward Councillor Comments**

Councillor Silvia Dacre requests that the application is referred to Planning Committee if the recommendation is to refuse and makes the following comments:

*"If Officers are minded to refuse this application I would ask that it be referred to Committee.*

*The Applicant does not accept the basis of the objections from Highways. There is no intensification of use. There is no addition of commercial use. The commercial use has continued despite the previous planning permissions for residential use. The classic car repair trade has carried on throughout and it is proposed that it will continue at the same level. There have not been issues with the entry and exit during this time.*

*The Applicant maintains there are no breaches of Policies NE8 or NE12. None of the land concerned is a special landscape area and it is appropriate development in the area around Todmorden."*

With regard to the above comments from the applicant, these are covered under the relevant sections of the report set out below.

### **Parish/Town Council Comments**

The development is located within the boundaries of Todmorden Town Council. Todmorden Town Council have made the following comments:

*"Supported."*

### **Assessment of Proposal**

#### **Principle of Development**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework 2023 (NPPF) (most latterly revised on 19 December 2023) sets out the Government's planning policies for England and how these are expected to be applied, alongside other national planning policies. Paragraph 225 of Annex 1 (Implementation) of the NPPF advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the Development Plan to the NPPF policies, the greater the weight they may be given.

The Calderdale Local Plan (CLP) was adopted by the Council on 22 March 2023. Its policies are aligned with those in the NPPF and they carry full weight.

At the heart of the NPPF is a presumption in favour of sustainable development. Paragraph 11 of the NPPF establishes that for decision taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- This is reflected in Policy SD1 of the CLP.

Chapter 6 of the NPPF seeks to support a prosperous rural economy and highlights that decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity taking into account, both local business needs and wider opportunities for development.

Paragraph 88 of the NPPF also says that decisions should enable the sustainable growth and expansion of all types of business in rural areas and sustainable rural tourism and leisure developments which respect the character of the countryside. Development should be sensitive to its surroundings, should not have an unacceptable impact on local roads and should exploit any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land and sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist.

- The proposed development is in the Area Around Todmorden. The Area Around Todmorden in the Calderdale Local Plan (CLP) is not designated Green Belt but is a 'countryside' designation reflecting the largely undeveloped swathes of upland around the town of Todmorden which sits in the valley below. The CLP provides that 'it is important to ensure that development within the Area Around Todmorden makes effective contribution to the openness and character of the countryside'.

Policy GB2 of the CLP discusses Development in the Area Around Todmorden and sets out:

- - *"Within the Area Around Todmorden development proposals which are considered appropriate will generally be supported providing they do not have a negative impact upon the openness or character of the countryside or upon the Special Protection Area (SPA) or Special Area of Conservation (SAC). The types of appropriate development are:*
- - a. *Uses necessary for agriculture, forestry or equestrian activity or other social and economic uses which have a functional need to locate in the countryside;*
  - b. *Uses which support sustainable growth and diversification of the rural*
    - *economy including for tourism;*
  - c. *Limited infilling in villages, and limited affordable housing for local*
    - *community needs under policies set out in the Local Plan*
  - d. *The re-use and adaptation of existing buildings;*
  - e. *The extension or alteration of existing buildings providing that it does not result in a disproportionate addition over and above the size of the original building;*
  - f. *Sport and recreation uses appropriate to a rural area which do not conflict with other land uses; and*
  - g. *Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*
    1. *not have a greater impact on the openness of the countryside than the existing development; or*
    2. *not cause substantial harm to the openness of the countryside, where the*

*development would reuse previously developed land and contribute to meeting an identified affordable housing need within the Borough.*

*II. Development which is appropriate should not detract from the visual amenity of the open countryside or lead to traffic, amenity, environmental or other problems which cannot be effectively mitigated."*

Policy EE2 discusses economic activity outside the main urban areas and goes on to say

*"...In order to allow for their continued operation and for the provision of new premises on a small scale in areas outside the main urban settlements, development will be permitted provided that proposals meet the requirements of:*

- a. Policy GB1 - Green Belt; or*
- b. Policy GB2 - Area Around Todmorden; and/or*
- c. Any other relevant policies in the Local Plan*

*II. Proposals will not be supported which have an adverse impact on areas of environmental sensitivity or are not located in a sustainable location."*

The proposal is for a new building for a commercial restoration business and production and storage of off grid power use Class E g iii (Commercial Business and Service) and relocation of access into site.

The supporting statement advises that:

*"The site, together with the neighbouring structures, has a long history dating back to 1846 when it was constructed for Mr William Clegg as an engine powered cotton mill. From around 1880 onwards, the building was used for the production of head and reed, mechanical components necessary for the mechanical production of cloth. 1950s saw the end of the building being used for associated textile production and was later converted into a residential dwelling, in which the applicant lives. A recent planning approval has been awarded for the conversion of the neighbouring commercial unit into a dwelling- 20/01548/FUL. The applicant currently uses that building as a commercial garage for the restoration of vintage vehicles. This new application seeks to reinstate the workshop area which will be lost during this conversion. The proposed site for this application was discussed during the 2020 application for the conversion of the workshop and it was confirmed that the application site is considered outside of the domestic curtilage and included within the historic industrial / commercial boundary of Owler Carr Mill"*

The current commercial garage which was part of the 20/01548/FUL application is attached to Owler Mill and is quite small in scale, being single storey in appearance. A small area of hardstanding has been associated with this use and can be seen on aerial photographs.

The proposed new building is located to the east of Owler Mill and is substantially greater in size and separate to the existing use. There are currently two unauthorised containers on the proposed site where the new building is to be located along with other containers to the north of Owler Mill which are located outside the red line. The applicant advised they didn't think they required permission for the containers which are being used for temporary storage purposes.

Prior to the siting of the containers located within the red line, this area of land was free from development and there was a field access into the site to the east of the existing hardstanding area that led to a levelled area with a boundary wall to the north separating it from the moorland above.

Aerial photographs from 2000, 2002 and 2006 suggest little change in the land showing it largely overgrown and no evidence of permanent structures. The applicant has also provided some historic maps and photographs showing planting and a structure on the site potentially circa 1960's but there is no evidence of this on the 1977 map and it has been free of development since.

Whilst the land within the red line may well have been within the ownership of the mill as indicated by the enclosing wall/trees that separate the land from the moorland beyond, there is no indication that this land has ever been used as part of the mill operation. The land immediately adjacent the road to the south of the proposed building was previously a levelled area with an access gate into it.

There have been significant engineering operations carried out to the north and east of Owler Mill over the last 4 years which have included excavation to the banking to the north of Owler Mill and the field and area to the east where the proposed development is to be sited. The applicant advises the land to the north of Owler Mill and to the east was previously garden but although there was some planting and an odd shed on the land this was not considered to be domestic curtilage resulting in application 19/00509/FUL including a change of use of land to site an orangery on the rear of the former mill.

On balance, the site is not considered to be previously developed land and although historically the proposed site may have been land in association with the mill, there has been no built form on the site for a significant length of time apart from the recent siting of containers.

The proposed development has no functional need to be located in the countryside and it is not redevelopment of previously developed land. The proposal does not fall under any of the other types of appropriate development set out under policy GB2 of the CLP. The proposal is therefore not considered appropriate in the Area Around Todmorden.

Further to the above, the previous application 20/01548/FUL to convert the existing commercial garage to residential use identified as part of its justification:

*"The location of the commercial use is divorced from the main populated areas and there is little demand in this location. The commercial part of the property has not been offered on the open market because of a possible conflict with the residential use. There is little prospect of employment potential in this location within a mixed use to the detriment of the residential occupancy.*

*...These incompatible uses should, where appropriate, be kept apart. There is no doubt that residential use has become a substantive use in the building after 50 years. The dwindling merit of 'employment use' has seen the potential almost removed. Therefore, it is considered to be inconsistent with UDP Policies to continue with industrial use that would constitute an incompatible use to the detriment of the residential amenity. It is clearly demonstrated that Employment Use B1, B2 and B8 is wholly unsuitable for this site and as such, compliance with the Development Plan and UDP Policies is assured."*

Given the above the proposal is not considered to accord with CLP policies GB2 and EE2 and therefore the principle of development would not be acceptable.

#### Visual Amenity, Layout, Design & Materials

CLP Policy GN4 Landscape, Special Landscape Area sets out that:

*"...Proposals for development within or affecting the Special Landscape Area (SLA) or its setting should be carefully designed to ensure they are in keeping with their location in the SLA in terms of density, height, massing, scale, form, siting and materials.*

*II. Proposals for development within or affecting the Special Landscape Area (SLA) will only be supported if the proposal:*

- a. Does not adversely affect the scenic quality of the SLA. Consideration should be taken to protecting important and distinctive views, and protecting remoteness and tranquillity.*
- b. Does not adversely affect opportunities for access and recreation; and*
- c. Protects and enhances landscape quality, sense of place and local distinctiveness, including retention and enhancement of features and habitats of significant landscape, historic, ecological and wildlife importance.*

*III In determining whether a proposed development may affect the SLA, consideration will be given to how the proposed development may impact its setting. Proposals should preserve or enhance those elements that contribute to the SLA'S significance, and development which will adversely affect the setting of the SLA resulting in harm to the significance of the SLA will not be supported.*

*IV Proposals within or affecting the SLA or its setting should be accompanied by a Landscape Impact Assessment setting out how the proposal protects and enhances the landscape, taking into account the requirements of this policy."*

With regard to 'Landscape Character Areas' (LCA), the site falls within the Calder (Walsden, Todmorden, Hebden Bridge, Mytholmroyd) Character Area.

*"New development should be designed in a way that is sensitive to its landscape setting, retaining and enhancing the distinctive qualities of the landscape area in which it would be situated. For each Landscape Character Area, planning permission will only be granted if the proposed development would:*

- II. a Make adequate provision as far as is practicable for the retention of features and habitats of significant landscape, historic, geological and wildlife importance;*
- b. Where possible, enhance the character and qualities of the landscape area through appropriate design and management;*
- c. Reflect and enhance local distinctiveness and diversity; and*
- d. Provide appropriate landscape mitigation proportionate in scale and design, and/or suitable off-site enhancements."*

This LCA consists of the main valley of the River Calder, running the breadth of Calderdale District from Todmorden in the west to Sowerby Bridge in the east. The Rochdale Canal runs parallel to the Calder, and Hebble Brook flows through Halifax. The character area is wholly contained within the district.

NPPF Chapter 15 Conserving and enhancing the natural environment states in paragraph 180:

*"The planning system should contribute to and enhance the natural and local environment by (amongst other things):*

- *Protecting and enhancing valued landscapes ...*

CLP policy BT1 discusses the need for high quality, inclusive design and establishes that developments will ensure high quality, inclusive design and demonstrate a holistic approach to design quality.

Chapter 12 of the NPPF Achieving well-designed places paragraph 131 states that:

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

The proposed development would have a footprint measuring 16m x 10m and an eaves height of 4.54m at the southernmost elevation and 7.09m to the ridge.

The building would be split internally providing a vehicle repair workshop and a renewable energy generation and battery storage area. Although not identified on the drawing the building would have a natural stone plinth with timber board cladding above. The roof would be metal sheeting. Access into the workshop would be via a roller shutter door in the west elevation and the storage area would be accessed from the north by a pair of double doors. There would be four roof lights in east and west elevation to provide a total of eight for natural light.

Details of the battery banks have now been provided along with the location within the building and information relating to the water turbines. The Design and Access Statement identifies that the proposed two battery banks would measure (2.4m x 3m x 2.4m) and would store energy generated by three water propelled turbines measuring (1m x 1m x 0.4m). Further details regarding the battery storage and water turbines are set out below under the relevant heading.

Access into the site is via an existing access although this appears to have been repositioned and a new dry stone curved boundary wall constructed either side. The supporting information refers to this being approved under the 2020 application, but this is different to that approved and resembles more of that which is shown on the proposed drawings. Concerns have been raised regarding the access by the Assistant Director (Strategic Infrastructure) Highways and is discussed in more detail under the relevant heading below.

The proposal is supported by a Landscape Impact Assessment (LIA) as required by CLP Policy GN4 IV. The LIA establishes that

*“The site is adjacent to the A681 between Bacup and Todmorden. The road follows the valley cutting, as such the hills are steep and enclose the site. The surrounding area is largely farmland used by sheep farmers, with some paddocks for horses. The Midgelden Brook stream flows parallel to the roadside.*

*The application site is currently home to a pair of shopping containers on rammed earth. Other buildings in the vicinity are constructed in Yorkshire sandstone and are between 2 - 3 storeys in height.”*

The LIA goes on to say:

*“Due to the site's location immediately adjacent to the highway on a steep sided valley, direct views to and from the property are limited. Travellers along Bacup Road may experience oblique views the property, however these will be set into the context of the mill site.*

*Visual Impact:*

*Designed with materials consistent with the local agricultural context, the building will minimise visual impact. The scale, shape, and orientation have been carefully considered to blend seamlessly with the natural topography, preserving the character of the locale”*

The LIA concludes:

*“In conclusion, the proposed development presents an opportunity to integrate with the historical, cultural, and natural aspects of the landscape. By respecting the site's heritage and employing sustainable practices, the project contributes positively to the local context, reflecting a balanced and forward-thinking approach to development.”*

A number of photographs have been included as to how the site has changed over the years.

As the photographs identify, prior to the siting of the containers the site had been free from development for over 50 years and had been left to green over. Further details of the site and the impact that the new development would have are set out above under the 'Principle of Development'.

The proposal for a new commercial building in the proposed materials in this location, adjacent to stone built residential development is considered to be incongruous in the street scene. The existing commercial garage building forms part of the mill building and is low level. It has been in situ for a significant time. The proposed development although not as high as the mill itself, would be prominent so close to Bacup Road and out of keeping in this rural setting. It is considered to encroach into the open countryside albeit the site has been stripped of any greenery by the recent engineering operations.

The development is not considered to respect or enhance the character and appearance of existing buildings and surroundings and would be visually intrusive in the open countryside.

Given the above the proposal fails to comply with policies BT1 and GN4 of the CLP and Chapters 12 and 15 of the NPPF.

### Residential Amenity

CLP policy BT2 which discusses privacy, daylighting and amenity space and establishes that:

*“Development proposals should not result in a significant adverse impact on the privacy, daylighting and private amenity space of adjacent residents or other occupants and should provide adequate privacy, daylighting and private amenity space for existing and prospective residents and other occupants.”*

The proposal site is in the same ownership as that of Owler Mill to the west of the site would be located within the ownership of the applicant which is the nearest property to the west of the site. The proposed development would be located approximately 11m from the nearest part of the building at Owler Mill which has recently been approved for residential use with the nearest windows being bedroom windows. This distance would be acceptable in terms of space about dwellings. The nearest properties to the north, east and south of the proposal would be over 100m away and as such there would be no privacy or overbearing concerns.

Policy EN1 discusses Pollution Control and sets out that:

*“The Council will seek to reduce the amount of new development that may reasonably be expected to cause pollution or be exposed to pollution. When determining planning applications, consideration will be given to the following issues: (amongst other things (my words))*



- c. *The likelihood of light, noise, smell, vibration or other emissions that pose an unacceptable risk to the amenity of the local area;...*

*...Development which does not incorporate suitable and sustainable mitigation measures which reduce pollution levels to an acceptable level will not be permitted."*

Paragraph 191 of the NPPF identifies that:

*"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- a) *Mitigate and reduce to a minimum potential adverse impact resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and quality of life...*
- c) *Limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation"*

Concerns have been raised regarding potential noise from the site in this rural location.

The Council's Assistant Director of Neighbourhoods (Environmental Health) has made the following comments:

*"Noise- commercial activity*

*The proposed vehicle repair unit is to be placed in what is currently a residential area in a rural setting. In order to protect the aural amenity of the area it is recommended that the hours of operation of the commercial activity be restricted to the following:*

*Mon to Fri- 08.00-18.00*

*Sat -08.00-14.00*

*Sun & Bank Holidays – No activity...*

*It is proposed that power is generated from water however no detail has been submitted and there is no evidence the applicant has access to or the right to use a watercourse.*

*As a precaution I would ask for a condition regarding noise from any power generation.*

*The development shall not begin until a scheme of sound insulation for any plant and machinery to be used on the premises has been submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall then be implemented before the development is brought into use and shall be retained thereafter."*

Although confirmation from the applicant states that the commercial use is in the same ownership, as the nearest residential development, either development could potentially be sold on resulting in amenity concerns to the residential use and potential complaints. To avoid this happening a tied condition would be required if approved. The applicant has been asked to provide confirmation of land registry plans in order that a tied condition can be included if approved. Details have been submitted.

No details of lighting have been provided for the site and given the rural nature of the site, if recommended for approval a condition providing full details of any proposed artificial lighting at the site could be conditioned.

With regard to the lack of detail for the hydropower and battery storage further information has now been provided and is set out below under the relevant heading.

A condition will be included should the proposal be approved, that water supplies in the vicinity shall be protected during excavation works.

It is acknowledged the concerns raised by neighbouring properties, especially with noise from the engineering operations that have occurred but given the distance from the site and subject to the conditions to reduce noise and light intrusion the proposal would satisfy CLP policies BT2 and EN1 and paragraph 191 of the NPPF which discusses noise and light mitigation. The tied use would also be required so the commercial works could not be sold on as a separate enterprise which could result in amenity issues.

### Heritage assets

Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that in considering whether to grant listed building consent for works, special regard must be given to the desirability of preserving the building and its setting or any features of special architectural/historic interest.

The requirements of Section 66 is set out legislation and as such there is a legal duty rather than a policy requirement that the Council can choose to attach limited weight to. This is reflected in paragraph 205 of the NPPF, which states that:

*“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”*

Also, in considering the impact of development on a heritage asset regard must be had to the significance of that heritage asset, in accordance with paragraph 201 of the NPPF:

*“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”*

Paragraph 208 of the NPPF states:

*“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

Policy HE1 Historic Environment I states:

*“Development proposals should conserve, and where appropriate, enhance, the historic environment especially those elements which make a particularly important contribution to the identity, sense of place and local distinctiveness of Calderdale...”*

In terms of harm, the proposal would result in very limited harm to the nearby listed structure which is a milestone. The public benefits of the proposal are limited but there would be a small-scale benefit to the economy through the creation of some sustainable energy and the commercial business. Given that approval has already been given for the extension to the existing commercial garage to provide additional living accommodation, which is adjacent the milestone, the limited harm and small benefit would be acceptable subject to the protection of the milestone during any construction works.

The proposals would therefore accord with policy HE1 and paragraphs 201, 205 and 208 of Chapter 16 of the NPPF.

### Highway Considerations

CLP policy BT4 discusses the design and layout of highways and accesses.

Annex 1 of the Local Plan sets out car & bicycle parking standards with IM5 ensuring development supports sustainable travel.

CLP policy IM4 states that:

*“Decision makers will aim to reduce travel demand, traffic growth and congestion through the promotion of sustainable development and travel modes. This will be achieved by a range of mechanisms that mitigate the impacts of car use and promote the use of other forms of transport with lower environmental impacts...”*

Paragraph j of IM4 is also relevant as it seeks the provision of electric charging points.

The Assistant Director (Strategic Infrastructure) Highways has been consulted and provided the following comments:

*“The site shares an access with the recently approved dwelling 20/01548.*

*In that application it was remarked that the existing access had a substandard visibility splay but owing to the fact it had existing use, it was considered a marginal decision and as such was not objected to.*

*Since then, and without approval, the access has been modified with the construction of a drystone walled entrance.*

*The application as submitted seeks to further intensify the use of this access for commercial use.*

*Bacup Road is classified as the A681. It is a strategic road carrying a high volume of trans Pennine traffic and is subject to the national speed limit.*

*The visibility splays in this class of road are dealt with in the DFT guidance document, the Design Manual For Roads and Bridges. This authority would also refer to the DFT document Manual for Streets and in particular chapter 7 of that document.*

*The visibility splay in this application reaches nothing like the splay required which would need to exceed 70m in either direction, from a point 2.4m from the kerb.*

*The sight lines would be obstructed by the building line adjacent to the road and the high sided boundary walls.*

*A separate access would be required of any commercial use to be segregated from any proposed residential use. If such a plan was submitted, it would need to demonstrate that vehicles for both developments could turn within the red line entering and leaving the site in a forward gear.*

*I am unable to support this application as submitted.*

*The proposals are not acceptable on highway safety grounds, the proposed access visibility splays and therefore could result in pedestrian or highway safety issues in the vicinity of the site. The application thus fails to satisfy policy BE5 of the Replacement Calderdale Unitary Development Plan, the design and layout of Highways and access.”*

Further to the above the ADSI has amended their reason for refusal due to some missing words and also to refer to current Local Plan policy as set out below:

*“In line with current policy and to correct the wording of my previous comments, the highway objection to this development would be as follows:-*

*The proposals are not acceptable on highway safety grounds, the proposed access and visibility splays are substandard and therefore could result in pedestrian or highway safety issues in the vicinity of the site.*

*The application fails to conform to the requirements set in policy BT4 of the now adopted Local Plan.*

*The design and layout of highways and accesses should:-*

- 1. ensure the safe and free flow of traffic (including provision for cyclists) in the interest of highway safety;*
- 2. allow access by emergency, refuse and service vehicle and, where appropriate, public transport vehicles*
- 3. provide convenient pedestrian routes and connectivity within the site and with its surroundings;*
- 4. take account of the Hierarchy of Road Users”*

Paragraph 116 (e) of the NPPF establishes that development should be designed where practical to incorporate facilities for charging plug-in and other ultra-low emission vehicles.

The applicant has stated:

*“There is NO NEW WALL, sections of the existing drystone wall have been repaired and reinstated in line with suggestions made by the planning department on a previous application. Records show the opening onto the A681 has existed as early as 1860 and been in continuous use since 1960, This opening has been conscientiously relocated to significantly reduce the risk to all road users, again in line with suggestions made in a previous application.”*

The above comment contradicts itself as it states ‘there is no new wall’ but then goes on to say ‘the opening has been conscientiously relocated to significantly reduce the risk to all road users. The applicant may have used reclaimed walling, but this has clearly been constructed in a different location.

Regarding the reference of the previous application, it can be seen on the previous layout plan that this does not resemble the current access and boundary walls. Old photographs also identify that although there is no dispute there has been an access in this location, but it has been widened and altered.

An amended red line to include the amended access has since been submitted and included in the description.

In terms of the intensification of the use of the proposed access, the new access is wider and is in a different location to that which previously existed. The proposal is for a new building. Previously the substandard access was accepted as it existed although this was a marginal decision and was due to the fact there would only be residential use utilising it.

A new much larger building is proposed in a different location and as such current policies must apply for the new development. This includes a separate access for the commercial use and residential use. Furthermore, there is nothing to say the existing commercial use would not remain. Although there is permission for the conversion of the existing commercial use to residential, if the new building was to be approved, a legal agreement would be required preventing commencement of the development unless and until the existing commercial use ceases and no other commercial use replaces it as we would not want the potential of two commercial developments in this rural area.

The applicant does not agree there would be an intensification of traffic at the site, however, with there being a proposed purpose-built commercial building set away from the existing residential use which is much bigger along with a wider, amended access, where there was previously little room for turning, it is considered the proposal would attract more vehicular movements to and from the site and also within the site.

The ADSI has since been re-consulted given the amended red line to include the changes to the access and have made the following comments:

*“The existing access onto the highway differs significantly from that approved in application 20/01548/FUL which was the building conversion and ground and first floor extension to existing vehicle repair garage to form a dwelling.*

*That approval was a marginal decision in favour given the existing use.*

*The application as submitted seeks to further develop the site for commercial use.*

*This would involve an intensification of a sub standard access onto a classified road, with an increase in both vehicular trips to and from the site, and access to larger commercial vehicles associated with the proposed use.*

*Bacup Road is part of the A681 and is a major route for trans Pennine traffic. It is subject to a speed limit of 60mph which is the national speed limit for that class of road.*

*When exiting the proposed development, visibility is restricted by the stone wall and building line adjacent to the highway.*

*This means vehicles have to inch out onto the Bacup Road without being able to adequately see oncoming vehicles.*

*Visibility splay guidelines are taken from both the DFT documents, Manual For Streets and the Design Manual For Roads and Bridges.*

*MFS deals with roads of up to 40mph with a safe splay at that speed being 70m in either direction, 2.4m from the kerb. The DMRB which deals with higher speeds and strategic roads dictates a safe splay of 160m.*

*In this case neither distance would be possible due to the geometry of the road and physical obstructions present.*

*the plan fails to detail the access road and its gradient and is not included within the red line of the application.*

*Any future submission should include the access amended from that already approved, within the red line of the application.*

*The proposals are not acceptable on highway safety grounds, the proposed access and visibility splays are substandard and therefore could result in pedestrian or highway safety issues in the vicinity of the site. The application thus fails to satisfy policy BT4 (The Design and Layout of Highways and Accesses) of the Calderdale Local Plan).*

The ADSI has since acknowledged that the access is located in the red line but the plan still fails to provide full details and the gradient has not been included.

Given the above the proposal would be contrary to CLP policy BT4.

#### Flooding, Drainage and Private Water Supply

Applicants will need to demonstrate that adequate foul and surface water drainage infrastructure is available to serve the proposed development and that ground and surface water is not adversely affected.

CLP policy CC2 discusses flood risk management and includes areas which fall within critical drainage areas.

CLP policy CC3 discusses water resource management which includes amongst other things:

*“...Ensuring new development has an adequate means of water supply, sufficient foul and surface water drainage and sewage treatment capacity;...”*

Originally no details regarding drainage at the site had been shown on a plan. Furthermore, no details of how the applicant proposed to use water to power a turbine and where this would be located had been provided. It was considered insufficient information had been provided to show that this method to generate power would be acceptable.

The Council's Flood Risk Manager has been consulted and has commented:

*“No drainage details have been provided for the proposals although the applicant has stated that they will discharge via existing drainage to the sewer network. Evidence should be provided that the surface water hierarchy has been considered. There is mention of using water on the site for generating electricity. As this would affect the flow in an Ordinary watercourse, Ordinary watercourse consent would be required for those works. The following conditions should be added to any permission granted:*

1. No drainage works shall begin until full details of the foul and/or surface water and/or sustainable systems of drainage if feasible and/or sub-soil drainage and external works for the development (taking into account flood risk on and off site and including details of any balancing works, off-site works, existing systems to be re-used, works on or near watercourses and diversions) have been submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented prior to the first operation of the development and retained thereafter.
2. A survey of existing site drainage, including any culverts/watercourses that may cross the site, showing connectivity and condition, shall be carried out prior to commencement of any works on site.
3. Under Section 23 of the Land Drainage Act any works to an ordinary watercourse [every river, stream, ditch, drain, cut, dike/dyke, sluice, sewer (other than a public sewer) and passage through which water flows and which does not form part of a main river] will require consent from the Lead Local Flood Authority, Calderdale MBC, prior to works on the watercourse commencing. This is required for both temporary and permanent works and is separate to any planning permission granted or other consents issued. Please visit <http://www.calderdale.gov.uk/v2/residents/environment-planning-and-building/flooding/water-courses-land-drainage> for further information and an application form. Alternatively, please contact [llfa@calderdale.gov.uk](mailto:llfa@calderdale.gov.uk) for an application form.”

Following on from this an amended plan indicating the route of the watercourse and mains sewer have been identified on the amended plan along with a drainage assessment. Details of the proposed operation of the turbines has also been submitted. (Details are set out below under the relevant heading). The Council’s Flood Risk Manager has been re-consulted and made the following comments:

*“The drainage assessment has indicated that the nearby combined sewer is the most appropriate option for discharge of surface water runoff, this is acceptable to the LLFA. As the proposal is to discharge to a mains sewer, Yorkshire Water need to be consulted on this application. The site also sits within 20 meters of an Environment Agency Main River, they also need to be consulted with this application.*

*Could you please provide a maintenance strategy for the proposed drainage. Please also provide a flood exceedance plan for this site.*

#### **SUGGESTED CONDITIONS**

1. No drainage works shall begin until full details of the foul and/or surface water and/or sustainable systems of drainage if feasible and/or sub-soil drainage and external works for the development (taking into account flood risk on and off site and including details of any balancing works, off-site works, existing systems to be re-used, works on or near watercourses and diversions) have been submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented prior to the first operation of the development and retained thereafter.”

A number of informatives have also been included which can be viewed on the Council’s website.

The Environment Agency have been consulted and have commented that it is outside their external checklist and so have provided no comments.

Yorkshire Water Services have been consulted and made the following comments:

*“Waste Water*

*If planning permission is to be granted, the following conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure: There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include , but not be exclusive to:*

- i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and*
- ii) the means of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority in consultation with the statutory sewerage undertaker . (To ensure that no surface water discharges take place until proper provision has been made for its disposal)*

- 1. The drainage details submitted on drawing 22-069-200 (revision D) dated 27/09/2023 prepared by Storah Architecture require amendments.*

*The following point should be addressed:*

- i) evidence should be submitted to show that other (than discharge to public sewer) means of surface water disposal have been considered and why they have been discounted.*
- 2. The developer is proposing to discharge surface water to public sewer however, sustainable development requires appropriate surface water disposal. Yorkshire Water promote the surface water disposal hierarchy and the developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer.*

*It is understood that a watercourse is located to the south of the site. This appears to be the obvious place for surface water disposal.”*

Further concerns have come to light regarding water coming off the hillside behind. Following this a site visit was carried out by the FRM and the following comments submitted:

*“Following from a site visit being undertaken and further discussions with the applicant and their engineer regarding the proposals, we have the following amended comments to make:*

*A full drainage strategy must be submitted which includes:*

- 1. A plan showing the existing site and ALL existing drainage infrastructure including sewers, land drainage, the route of the existing watercourse through the site from the point it emerges on the site to its outfall, and any other drainage features.*
- 2. A plan showing the proposed drainage layout and any changes which will be made to the route of the existing watercourse and any extra manholes etc which will be added to it. The proposed system should deal with any existing drainage issues which cause water to flow onto the main road.*
- 3. Details of compliance with the hierarchy of surface water disposal and*
- 4. A maintenance strategy for the completed drainage.*



*The existing watercourse which flows through the site is an Ordinary Watercourse as defined in the Land Drainage Act. As such, any works will require Ordinary Watercourse Consent. Please see informative below. If surface water from the development is to be discharged to the watercourse, then information will be required to determine if these are existing flows or additional flows. A survey of the watercourse to its outfall will be required as well as an assessment of the hydraulic capacity of the watercourse and its ability to accept any additional flows proposed without increasing flood risk.*

## **SUGGESTED CONDITIONS**

*1. No drainage works shall begin until full details of the foul and/or surface water and/or sustainable systems of drainage if feasible and/or sub-soil drainage and external works for the development (taking into account flood risk on and off site and including details of any balancing works, off-site works, existing systems to be re-used, works on or near watercourses and diversions) have been submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented prior to the first operation of the development and retained thereafter.”*

A number of informatives have also been included to guide the applicant as to what is required. Further clarification regarding the route of the ground water has been submitted. The agent has commented that currently, the ground water is collected in 3 drains on the upper hillside. These are channelled into the manhole in the parking area (a photograph is shown on the plans). The manhole takes the water into an original culvert which runs under the mill, across the road and into the Midgelden Brook. The agent has stated that this is how the mill was powered at one time and apart from the manhole chamber being replaced with a concrete chamber, is original to the mill.

The proposal includes branching off one of these drains before the water gets to the manhole. This would be a 100mm drainpipe excavated into the ground approximately 500mm below the ground surface. The water will flow through this pipe into 3 water containers, each 1 cubic meter. This will allow the flow of water from the store to the turbines to be controlled and will provide the electricity.

The water from the turbines will then flow into a drain and be returned to the manhole. There is no additional water placed on the system that is already there. There is no water removed from the system. The water would be diverted temporarily, to be used to generate energy.

Further details are set out below under Renewable and Low Carbon Energy  
Given the above and subject to condition the proposal will satisfy CLP policies CC2 and CC3.

### **Renewable and Low Carbon Energy**

CLP policy CC5 Supporting Renewable and Low Carbon Energy sets out:

The contribution from renewable and low carbon energy generation will be increased over the period of the Local Plan through:

- a. Positive consideration of proposals for renewable and low carbon developments, including proposals for community led and micro-generation schemes, subject to there being no unacceptable adverse environmental effects, including to areas of biodiversity importance;
- b. Maximising opportunities for and resulting from the co-location of energy producers with energy users;
- c. The implementation of the Council’s Energy Futures Strategy and its Carbon Action Management Plan (or other agreed strategy) where this relates to buildings.

CLP CC6 Part 1 – Assessment of Proposals for Renewable and Low Carbon Energy goes on to say:

- I. Proposals for the generation of energy from renewable and low carbon sources (including distribution infrastructure, Combined Heat and Power, and District Heat Networks) will be assessed for their contribution to reducing carbon emissions and to the overall supply of renewable energy along with any identified harm the proposal would cause including:
- a. Any significant harm to the visual quality or character of the landscape including cumulative issues, to the local environment, recipient building or the recreational/tourist use of the area and measures to mitigate these and enhance the landscape;
  - b. Any adverse effects on neighbouring uses including the amenity of local residents;
  - c. Any significant harm to sites of nature conservation or biodiversity value and protected species;
  - d. Any significant harm to surface water, drainage, groundwater or water supply;
  - e. Any adverse effects on heritage assets including views important to their settings;
  - f. Inefficient use of land by using land not previously developed and higher quality agricultural land in preference to previously developed land and poorer quality agricultural land;
  - g. Access for construction traffic leading to highway danger or permanent damage to the environment;
  - h. Any adverse effects on aviation navigation and radar systems and/or meteorological radar systems (based on the most recent evidence); and
  - i. Commitment from the developer to remove structures and fully restore the site, to the satisfaction of the Council, should the whole, or part of the site become inoperative for power generation purposes.

Notwithstanding the significance the Council places on the role of renewable and low carbon energy in addressing climate change, any environmental and landscape (including cumulative) implications need to be considered.

PPG advises that Hydroelectric power is the energy derived from flowing water. This can be from rivers or man-made installations, where water flows from a high-level reservoir down through a tunnel and away from a dam.

Turbines placed within the flow of water extract its kinetic energy and convert it to mechanical energy. This causes the turbines to rotate at high speed, driving a generator that converts the mechanical energy into electrical energy.

The amount of hydroelectric power generated depends on the water flow and the vertical distance (known as 'head') the water falls through.

The submitted drawing identifies that the ground water from the north would be diverted to three storage containers located within the proposed storage building. This would then be passed through three water turbines which would generate the energy to be stored in the battery storage area, with the water then being returned to the manhole as identified on the plan and on to Midgelden Brook. The agent advises that the flow of water through the manhole has been measured at approximately 1.8million litres per day.

The Design and Access Statement identifies that the proposed two battery banks would measure (2.4m x 3m x 2.4m) and would store energy generated by three water propelled turbines measuring (1m x 1m x 0.4m). The agent has included a note on the drawing which shows that each turbine can produce 1kW/hr. The proposals include 3 turbines.  $(1\text{kWh} \times 3) \times 24\text{hrs} = 72\text{kWh}$ . The average UK household uses approximately 10-15kWh each day. This proposal would generate sufficient energy each day, to enable the property to be off grid for 5-6 days.

The supporting information advises that the proposed workshop may make use of much of this power, but with the ground water flow charging the batteries constantly, there will always be a sufficient supply.

With regards to the battery storage PPG advises that electricity storage can enable us to use energy more flexibly and de-carbonise our energy system cost-effectively.

A specification for the battery storage has been provided which states it is a complete battery room ready to be installed and includes battery housing and storage and means of monitoring, cooling and fire extinguishing. The company sell a 'plug and play' battery room, the document submitted has an image of the battery storage cages inside. The applicant is attempting to build a similar set up inside the proposed shed and the image with the specification has been provided to show the inside of the container.

Subject to the drainage details being acceptable the use of the building for the storage of the batteries and water turbines is acceptable although the building itself is not appropriate development for the Area Around Todmorden and would have a detrimental impact on the visual amenity of the Special Landscape Area.

Given the above the proposal for the turbines and battery storage would be acceptable in principle but would require a building to house them which in itself would not be appropriate in the Area Around Todmorden and would impact on the visual amenity of the Special Landscape Area and the street scene.

Given the above, the proposal is not considered to satisfy CLP policy CC6 Part 1 due to the inappropriate siting, materials and scale of the building in which they would be housed.

### Wildlife Conservation, Trees and Landscape

Policy GN3 Natural Environment seeks amongst other things to:

*...achieve better management of Calderdale's natural environment by requiring developments to:*

- a. Conserve and enhance the biodiversity and geological features of the Borough by protecting and improving habitats, species, sites of wildlife and geological value and maximising biodiversity and geodiversity opportunities in and around new developments;..."*

The site falls within a bat alert area.

A Species Enhancement Statement has been submitted as part of the application. This identifies that an RSPB Classic Nestbox will be constructed on the eastern facade, in accordance with the RSPB guidance, and a bat box to the south elevation, towards the apex of the roof.

Subject to conditions relating to the above bird and bat boxes the proposal is considered to satisfy CLP policy GN3 and Chapter 15 of the NPPF.

## Ground Conditions

CLP Policy MS2 discusses mineral safeguarding areas. Policy EN3 discusses Environmental Protection.

The site falls on land identified as a Sandstone Mineral Safeguarding Area and within an area of having a low risk of historic Coal Mineral. The site is also on land with a potential of land contamination.

A Phase I report has been submitted undertaken by Storah Architecture Limited that sets out recommendations including a radon barrier. If approved a condition including reference to the recommendations would be included.

The Council's Assistant Director of Neighbourhoods (Environmental Health) has made the following comments:

*"The Phase 1 desktop and site walkover has not indicated the need for an intrusive Phase II survey."*

In any event paragraph 190 of the NPPF establishes that:

*"Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner"*

Under the relevant criteria regarding the safeguarding area for sandstone, even if it was found that sandstone was present the site is not suitable for the extraction given that it would cause unacceptable impact on neighbouring uses and local amenity.

The proposal is considered to satisfy the objectives set out in CLP policy MS2 and EN3 subject to condition.

## Planning Balance

The proposed development is for a commercial building located outside an employment area. The site is located within the Area Around Todmorden where there is set criteria as to what is appropriate development for the area. The proposal for a commercial use on land that is not considered to be previously developed, does not fall under any of the criteria and as such is therefore not considered to be appropriate development. Furthermore, the site falls within the Special Landscape Area and as such the impact on the open countryside must be assessed. The building would be in a prominent location and although there is development to the west these are residential properties, apart from the existing small scale commercial garage which is single storey and attached to the existing residential development. The new building would be incongruous in the street scene and impact on the visual amenity of the Special Landscape Area. The proposed building would also be out of keeping with the character of the area.

Furthermore, the proposal would result in highway safety concerns especially with regard to visibility and sight lines and the lack of a separate access for the residential and commercial uses.

Noise concerns have been raised but could be controlled by conditions. The site is on a site of potential land contamination, but the Phase I report sets out recommendations and is acceptable. Bird and bat boxes are proposed for species enhancement and could be conditioned. There would be limited harm to the listed milestone which could be protected from any proposed works. Full drainage details would be required. The private water supply details would also require conditions.

Details have now been provided with regard to the battery storage and water turbines and the location shown on the proposed plan. However, although the turbines and battery storage may be acceptable the building housing them would not.

Given the above, the principle of the development is not considered to be acceptable, and the development would be inappropriate for the location, impacting on the visual amenity of the open countryside, the character of the area and street scene and resulting in highway safety concerns.

The proposal is not supported.

## **CONCLUSION**

**The proposal is not considered to be acceptable. The recommendation to refuse planning permission has been made because the development is not in accordance with policies GB2 (Development in the Area Around Todmorden), GN4 (Special Landscape Areas), BT1 (High quality, inclusive design), BT4 (The Design and Layout of Highways and Accesses), CC6 Part 1 (Assessment of Proposals for Renewable and Low Carbon Energy) or with guidance set out within paragraphs 131 and 180 of the National Planning Policy Framework, nor have there been any material considerations to indicate that an exception should be made in this case.**

Richard Seaman  
For and on behalf of  
Director of Regeneration and Strategy

Date: 20<sup>th</sup> December 2023

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## **Further Information**

Should you have any queries in respect of this application report, please contact in the first instance:-

Gillian Boulton (Case Officer) on 01422 392232 or

Lauren Spensley (Lead Officer)

## **Reasons**

1. The site lies within the Area Around Todmorden in the adopted Calderdale Local Plan (CLP). Policy GB2 of the CLP sets out appropriate development for the Area Around Todmorden and establishes that where development is appropriate it should not detract from the visual amenity of the open countryside. The proposal for a commercial building which is not on previously developed land falls outside any of the listed criteria considered to be appropriate development in the Area Around Todmorden. Furthermore, due to the prominent location, scale and design of the building, the development would be incongruous in the street scene and would have a detrimental impact on the visual amenity of the open countryside. As such, the proposals would be contrary to policy GB2 (Development in the Area Around Todmorden), GN4 (Special Landscape Area) and BT1 (High Quality Inclusive Design) of the Calderdale Local Plan and advice contained within paragraph 131 of Chapter 12 (Achieving well-designed places) and paragraph 180 of Chapter 15 (Conserving and enhancing the natural environment) of the National Planning Policy Framework.
  2. The proposals are not acceptable on highway safety grounds; the proposed access and visibility splays are substandard and therefore could result in pedestrian or highway safety issues in the vicinity of the site. The application thus fails to satisfy policy BT4 (The Design and Layout of Highways and Accesses) of the Calderdale Local Plan).
  3. Although the proposal for water turbines and battery storage to provide off grid power is something that could be supported subject to further information in terms of full drainage details, they would be housed in an inappropriate building for the Area Around Todmorden which in turn would have a detrimental impact on the visual amenity of the Special Landscape Area and the street scene and as such would be contrary to policies CC6 (Part 1 - Assessment of Proposals for Renewable and Low Carbon Energy), GB2 (Development in the Area Around Todmorden), GN4 (Special Landscape Area) and BT1 (High Quality Inclusive Design) of the Calderdale Local Plan and advice contained within paragraph 131 of Chapter 12 (Achieving well-designed places) and paragraph 180 of Chapter 15 (Conserving and enhancing the natural environment) of the National Planning Policy Framework.
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