

DELEGATED DECISION REPORT

HPK/2024/0161
Valid 30/05/2024

FURNESS VALE BUSINESS
CENTRE CALICO LANE
FURNESS VALE

USE OF DECOMMISSIONED
DOUBLE DECKER BUS AS A
CAFÉ WITH THE CHANGE OF
USE OF THE DISUSED GRASS
AREA AND GARDENS TO BE
USED AS CAFÉ PREMISES
FOR CUSTOMER SEATING
AND CAR PARKING
(RETENTION).

(FULL - MINOR)

MAIN ISSUES

- Principle
- Amenity
- Transport implications
- TPO

DESCRIPTION OF SITE

The application site is located in the Furness Vale Business Centre, off Calico Lane. The land subject to the application is car parking and grassed areas related to the business centre. The Furness Vale Business Centre is a primary employment zone but the application site is within the car parking area which is allocated for a mixed use development DS12 in policy H2 (Housing Allocations).

PROPOSAL

The application relates to the stationing of a decommissioned double decker which is being used as a café and the associated outdoor seating areas. It is a retrospective planning application seeking their retention.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

High Peak Local Plan 2016

S 1 Sustainable Development Principles
S 1a Presumption in Favour of Sustainable Development
EQ 6 Design and Place Making
E3 Primary Employment Zone
CF 6 Accessibility and Transport

Whaley Bridge Neighbourhood Plan

WB-G1: Town Centre and Economy
WB-E1: Sustainable Design

National Planning Policy Framework

Section 2: Achieving Sustainable Development
Section 6: Building a strong, competitive economy

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

Historic applications relating to industrial use of the wider site.

CONSULTATIONS

Publicity

Site Notice expiry date: 09.07.24
Neighbour consultation period ends: 09.07.24

Public Comments

Representations have been received in support and opposition to the proposals.

Support – 27

- Furness Vale has a lack of cafés, it provides a local service to the community
- Site is well managed
- Provides convenient catering for business centre workers, avoids the need to drive elsewhere;
- Utilises an underused part of the business centre site;
- Brings custom to other occupiers of the business park
- Attracts walkers and bike riders
- Bus is located in a position so that it is not visible from the road or canal
- Plenty of parking available.

Objections – 3

A detailed letter of objection has been received from a resident of Lake View who's property is adjacent to footpath 115 which connects the canal tow path to Calico Lane and raises the following concerns:

- Applicant has been directly public to use the café via the public right of way that goes through their property. Signage has been put up;
- Since the café has opened there has been exponential growth in the users using the footpath;
- The applicant has applied to open between 10am and 10.30pm, 7 days a week;
- Grass and garden area were part of a domestic dwelling not the business park;
- Toilet facilities – use of toilet in the flat next to the bus, domestic dwelling does it need a change of use?

- Contaminated land – development plan policy about testing soil before permission has been granted for development, this hasn't been done.
- Drainage – query arrangements as planning application forms says main sewer;
- Application does not address access arrangements for all in particular disabled access;
- Not able to relax in own garden;
- Dog not on leads when walking through their garden to get to café;
- Calico Lane is unsuitable, not wide enough for two vehicles passing and is cobbled;
- Public right of way is not lit.

Two other letters/emails also residents of Lake View have confirmed that they oppose the application and support the main objector's views.

Town / Parish Comments

No comments received.

Environmental Health

No objection and recommend a condition that the use shall not operate over 22:30 on any day.

Licensing

The licensing team have advised that the premises has had two temporary event notices previously.

Derbyshire County Council Highways

There would appear to be no material impact on the public highway and therefore the Local Highway Authority has no comments to make.

Derbyshire County Council Public Right of Way

I can confirm that Whaley Bridge Public Footpath No. 115 runs along Calico Lane, southeast of the proposed development site, as shown on the attached plan, access leading from Whaley Bridge FP 2 along the canal path. For information, we have checked our records to find that the full extent of FP 115 is not publicly maintainable, it is privately maintainable as a matter for the residents and business owners that use Calico Lane for access.

The Rights of Way Section has no objection to the proposals as it appears that the route will be ultimately unaffected by the proposed works. I should be grateful however if you would advise the applicant as follows: -

- The footpath must remain open, unobstructed and on its legal alignment.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.
- Consideration should be given to the safety of members of the public using the path during the works. A temporary closure of paths will be permitted on application to DCC where the path remains unaffected on completion of the development.

- There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way section

OFFICER COMMENTS

Principle of Development

The site is located within the built up area of Furness Vale, within the Furness Vale Business Centre which is an allocated employment site (policy E3). Local Plan policy S2 identifies Furness Vale as a larger village where a moderate scale of development may be acceptable. The site is therefore in a location where development is acceptable subject to a detailed assessed of all relevant planning considerations.

Proposed use and siting

The application relates to the retention of a double decker bus which is being used as café and associated outdoor seating areas. The café use is classified as being within use class E, sub-section b) Food and drink which is mostly consumed on the premises.

As a café it is form of retail which is considered appropriate and suited to its setting within a business centre (employment area). Indeed, occupants of the business centre have written in to support the application stating how this provides a service for them and avoids the need for them to travel by car. The scale of the development including the seating area is considered suitable to the site and accords with local plan policies EQ6.

Hours of opening

The applicant has confirmed that the hours of opening are currently 10.00 to 15.00 on Wednesday to Sunday with late night opening until 9pm on Fridays. The application form states that they are seeking the hours Monday – Sunday 10.00 until 22.30. However, the applicant has confirmed that the hours indicated on the application forms would not reflect the regular opening hours and late night opening would be mainly Friday and Saturdays.

It has been agreed with the applicant that the opening hours can be conditioned to be 10.00 to 16.00 on Wednesday, Thursday and Sunday and until 10.30 on Friday and Saturday. This will enable the business to trial late night opening and apply for appropriate licensing.

Environmental Health has not objected to the application and have recommended a condition be imposed restricting hours until 10.30pm.

The nearest residential properties are on Bank View close to the business park entrance and the distance to these properties are considered sufficiently so not to give rise to disturbance. Limiting the late night opening to Friday and Saturday would seem appropriate for the time being.

Amenity

LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties.

As outlined in the principle section, the café use is considered compatible with the business uses of the business centre. It is noted that there are some residential properties close to Furness Vale Business Park, 1 & 3 Bank View and properties on Lake View which back on to the canal tow path.

Objection letters have cited that since the café has opened more people have been using footpath 115 to access the facility from the tow path. This is not unexpected given that the tow path is a popular walking route. It is noted that footpath 115 is newly established having been created in June 2021 and some local residents did not support its designation.

However, the residents of Lake View are indirectly affected by the café use, they are not directly affected by noise or smell emanating from the use or vehicles accessing the site as this is no different from the current arrangement of vehicles visiting the business premises. As such the level of amenity harm is considered more of an inconvenience caused by some pedestrians accessing the site from the tow path, rather than a significant amenity harm. It is noted that some of the objectors comment that dog owner allow their dogs off the lead and that they are unable to relax in their gardens. Irrespective of this application pedestrians can use this footpath for their own convenience at any time whether they are using the café or not. Therefore the safety concerns, including an increase in crime, do not do not give rise to any materially sound reasons to refuse planning permission

The proposal is therefore considered to satisfy local plan policy EQ6 with regard to residential amenity.

Trees & Biodiversity

There is a group TPO (112) that covers the tree belt between the canal and the business park. None of the trees will be affected by the proposals. The bus is sited away from the trees close to the main buildings and the existing car parking areas shown on the site plan remain as existing. Therefore the proposals satisfy local plan policy EQ 9.

The stationing of the double decker bus and the associated seating area is considered acceptable with regards to biodiversity considerations as it will not materially impact on biodiversity and does not trigger BNG requirement. It therefore satisfies policy EQ5.

Highway Safety & Public Rights of way

As previously noted, comments have be made about the public footpath and the condition and suitability of Calico Lane. Calico Lane is the only vehicular access for the commercial users of the business park and residents properties along the lane including Lake View and Bank View. As such it is a moderately busy road on weekdays

as commercial vehicles and employees use the road as well as local residents. It is also a public footpath (115)

The PROW team has confirmed that FP 115 is not publicly maintainable and therefore its maintenance is private and for the business and residential owners to maintain. Calico Lane part of FP115 is generally well maintained it is a shared surface mainly set cobblestone and there are 10mph signs to reduce speed and therefore it should be a safe pedestrian route for walkers. The proposal does not have any impact on Calico Lane, it will not change how it is currently used. The Bank View part of FP115 is in a fair condition, a mix of tarmac and cobbles and it will be for the residents to maintain this land as it is not an adopted highway. Similarly, Lake View is also a private road and is not adopted by the Highway Authority and is reliant on local resident paying for its maintenance. Whilst concerns have been raised that the FP is unlit and unsuitable for the disabled, it is noted that the hours of operation are limited to during the day with the exception of Fridays and Saturdays. Moreover, although the surface of the road (and footpath) is not level, this is a pre-existing condition, and it is considered unreasonable to insist that the road/footpath is “made-up” to accommodate those with mobility problems. The road is used by the owners of the adjacent business park, with a variety of business vehicles. Any upgrade, given that FP115 is not publicly maintainable is a matter for the owners.

The business centre has a spacious car park with sufficient spaces for anyone visiting the café by car. It is evident that the use has also been popular with walkers and cyclists. Employees from the business centre have indicated that they use the facility and therefore vehicular movements are potentially reduced by its presence as they no longer need to travel off site for lunch breaks. The Highway Authority raise no objection to the proposals. Accordingly, the use does not raise any highway safety concerns and is considered to satisfy local plan policy CF6.

Other matters

In response to other matter raised by objectors:

Signage

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 control advertisements and not all advertisements require advertisement consent to be displayed. From the officer's site visit of the site and surroundings including along Calico Lane and the Canal tow path, there was only evidence of discrete directional notices on the wall and building on the approach to the business park. Both signs are small and would be exempt from advertisement consent. The enforcement team have recently revisited the site, due to a complaint about signage. A number of A4 signs have now been removed with a single painted sign on a stone wall. The painted sign simply directs people to a café, it is not specific to the name of the business.

Provision of Toilets

An objector has queried whether a toilet needs to be provided at the site and also states that there is an arrangement with an adjacent property for their toilet to be used. The provision of toilets within a café is not a planning matter, nor is the arrange for an adjacent toilet facility to be used. The use of this toilet is a private matter and does not

necessitate a change of use. The owner has advised that a toilet is available for use in an adjacent flat, and further toilets could be made available in the adjacent business park. The owners of the business park have confirmed that this is the case. As such this is not a matter for the planning system to address.

Contaminated Land

Reference is made to the development plan requiring soil testing. Local Plan policy DS 12 relates to redevelopment proposals for the sites and list amongst its requirements the need for contamination and ground condition survey. However, this relates to proposals that would require significant excavational works, the subject proposal is for the siting of decommissioned double decker bus and does not require the existing car park to be disturbed. It is therefore not a relevant consideration for this planning application.

Property value

The potential impact on property value is not a planning matter.

CONCLUSION / PLANNING BALANCE

The stationing of decommissioned double decker bus and the associated seating is considered acceptable and appropriate to the site and its surroundings. In terms of the objections raised about proposal relating public safety, insufficient evidence has been presented to justify any materially sound reasons to refuse planning permission. The proposal is considered to comply with local plan policies and the NPPF and is accordingly recommended for approval.

OFFICER RECOMMENDATION : Approve

Case Officer: Rosie Dinnen

Recommendation Date: 22.11.24

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council