

Planning Application 23/03558/EFUL Arena 1865 Ltd

Further response from Federation of Bath Residents' Associations (FoBRA)

We submitted earlier consultation responses on general planning matters (23rd October 2023) and on Transport and Access (31st October 2023). We have considered the revisions made in this new application and have further comments, which are presented below as updates with reference to our previous documents. Relevant parts of our previous response preface the related update comments for ease of reference.

Planning Application Nos. 23/03558/EFUL and 23/03559/LBA
Arena 1865 Ltd – Bath Recreation Ground

Whilst FoBRA supports the principle of a new stadium proposal (subject to clarifications).

We **Object** to this specific application unless there are conditions regulating commercial activity and protecting residential amenity through compliance/enforcement.

1. Context

The proposed development is within an allocated Development Site in the Local Plan and therefore has to comply with relevant Policies B1 and SB2 including:

- New sporting, cultural and leisure stadium that safeguards the valued assets and attributes of the WHS, including key views
- Respond sensitively and creatively to its sensitive context within the WHS.

2. Principles

(a) FoBRA supports the replacement of the current rugby stadium by a new stadium that is appropriate to the heritage and residential setting.

(b) FoBRA supports greater use for sports beyond the number of main fixtures currently played provided these additional sports events do not involve use of a tannoy system or amplified music.

(c) Given that the additional non Rugby uses constitute an "Agent of change". It is vital that both any increased sports use and any other permitted uses are subject to clear and enforceable Conditions mitigating adverse impacts on surrounding areas. This cannot be left to individual event-specific Event Management Plans, TENs and Travel Plans. Thus additional clarification of these events and accompanying detailed Travel Plans with effective mitigation should be required. Indeed if mitigation is not possible then restriction of these new activities may be required.

Updated comments on Principles

- The revised application takes little account of use-related issues: It does not address the fact that the extensive new non-Rugby uses constitute an "Agent of Change", it does not adequately clarify the nature of the proposed new events, and strongly resists Conditions mitigating adverse impacts of those extended uses on surrounding areas.
- FoBRA therefore continues to be concerned with the impacts on Bath Residents and reiterates Principle (c) above.
- We strongly recommend clear and enforceable planning conditions to protect residential amenity of the historic and residential neighbourhood which the proposal sits within.

(i) Business use not ancillary to stadium use/impact on city centre

The developer proposes substantial conference / function / banqueting / hospitality facilities for everyday use (not just matchdays). In B&NES's Pre-App opinion the Planning Officer stated:

of use of the building. This information is required as part of a planning application. These uses potentially fall within the definition of 'main town centre uses' in the NPPF and as the Recreation Ground lies outside the city centre it will need to be demonstrated that these uses are genuinely ancillary to the stadium. Limited and small scale A3 uses to serve members of the public could be acceptable but larger-scale or more extensive facilities that impact negatively on the vitality and viability of the city centre and other local parades would not be supported.

FoBRA supports the Planning Officer's statement and opposes inclusion of substantial commercial premises whose use is not ancillary to the stadium usage. Such inclusion being directly contrary to B&NES zoning policy and as such could pose a clear threat to the economic viability and future sustainability of the city centre.

Updated comments on use not ancillary to stadium use/impact on city centre

- The revised plan still includes large amounts of non-ancillary hospitality activities including nearly 9000 square feet of 7-day-a-week food/beverage space, over 8000 square feet of further “hospitality suites ...available for hire” with expected usage of about 114 days a year, as well as further “supporting floorspace” which explicitly refers to bars without providing details.
- Accordingly our previously expressed concerns (above) regarding the threat these non-ancillary uses pose to the economic viability and future sustainability of the city centre remain outstanding.
- Detailed travel data relating to these activities are currently absent and need to be provided.

(ii) Noise

Noise management needs to be appropriate to the setting in a residential area (Pulteney Estate and nearby parts of central Bath including the Empire which due to their heritage listing have little

acoustic insulation) and close to multiple venues where church services, classical concerts or literature events are held. The increased number of sports and other events requires clear, enforceable Conditions reflecting national law, policies and practice, including the Code of Practice on Environmental Noise Control at Concerts (CoP). This means that the decibel levels described in the application may already contravene the code in which case we expect the Planning Authority to seek specialist technical advice on the levels which would comply and commit to enforcement.

The events are defined as – one event for the purpose of the proposed scheme will be undertaken on a single day but events may occur on 2 concurrent days (we assume they mean consecutive). We support this clear definition of “event” duration as “day” and expect this to be confirmed in conditions.

The total Rugby related events are proposed at 64. The extra non-Rugby/sports use event days total 14, these would take place during summer months when residents have windows opened for ventilation and when they should reasonably expect some respite from amplified sound. Planning should also take into account the cumulative effect of the other events taking place on the outfield and in the city nearby. We recommend that the Planners reflect local views on the impact of additional amplified events and look to reduce and define this number, also consider that these events should not take place during the national exam series to respect the needs of school pupils sitting important examinations impacted by intrusive amplified sound. Also, that these events should finish by 10pm.

To enable proper application of these national policies and framing of Conditions, clear information on the proposed number and nature of events is essential (this being a critical element in application of the CoP), along with the addressing of other omissions in the current reports with regard to noise impacts in key locations. The CoP also requires consideration of cumulative impact with any events on the remaining parts of the Rec (the application appears under “previous events” to incorrectly conflate events held at the current stadium with events held on the outfield which are clearly not relevant).

Design of the stadium/new tannoy could potentially improve the currently intrusive levels of tannoy announcements/music on matchdays – we welcome this, but clear, enforceable Conditions are needed to cover any exceedances. These conditions should include use of tannoys/music on non-match days such as set up and testing too to avoid unnecessary noise disturbance into nearby homes.

The assessment of noise (including predicted noise levels) from match days needs to include amplified music (played during and after the match) and use of the tannoy in addition to crowd noise levels and consideration needs to be given to these sources both individually and collectively as it is often these sources that are most intrusive. The application requires clarification on this.

A Condition limiting use of the tannoy to a set number of matches a year (which reflects the current number of matches) should be applied to avoid increased matchday noise cumulatively adding to the extra noise of other non-rugby events. (Of-course emergency use of the tannoy on additional days to comply with a health and safety compliance could be excepted)

Updated comments on Noise

- Non-rugby events: The applicant appears to imply willingness to comply with the CoP which is welcome. However, this is not reflected in the actual measures proposed, which do not conform to noise levels set out in the CoP and do not take proper account of the cumulative impact principles that are an integral part of the CoP. The large increase in events (including

thirteen over the short out-of-season period) requires clear and enforceable caps on noise levels reflecting the number of events.

- There has been a certain amount of further information about non-rugby events, and a reduction in music concerts from four to three, but the necessary clear information remains absent and our above comments remain relevant. What constitutes an event? One concert or a festival of several concerts over an extended period? (i.e. over several days or over more than one day?) Detail is critical and conditions are essential. Also we would expect there to be no room for future extensions to these limits via a less democratic licensing route.
- We strongly disagree with the developer's position that it is acceptable for "noise impacts to cause harm to the quality of life of neighbouring properties". The non-rugby uses constitute an "Agent of Change" which requires meaningful enforceable Conditions in mitigation of impacts. The benefits alleged to justify such harm are moreover not proven, with exaggeration of supposed benefits and underplaying the adverse impacts and harms.
- Adequacy of technical data: The provided noise maps are confined to a small area and appear not to take account of the known noise characteristics of the bowl in which Bath is located, where noise on some parts of hillsides such as Bathwick Hill can be as significant as some locations in the basin below. As a result many significant locations are absent from these maps, including many homes close to the Rec (e.g. Edward Street, Vane Street, Henrietta Street), and important facilities that act as places of worship and venues for classical music/literature events throughout the year and during various festivals (Bath Abbey, Bathwick St Mary's and others). Much wider mapping is needed.
- In summary, noise impacts are likely to be a source of significant nuisance to residents far beyond the areas currently examined and this requires proper consideration with enforceable limits and mitigations.

(iii) **Lighting**

Policy D8 of the Local Plan states:

<p>POLICY D8: LIGHTING</p> <p>1) Proposals for artificial lighting will only be permitted where:</p> <ul style="list-style-type: none">a) they would not give rise to an unacceptable level of illumination into the sky, open countryside, urban areas or villages;b) it can be demonstrated that additional lighting on site will have no detrimental impact on visual and residential amenity, the historic environment or local ecology;c) any adverse impact of lighting proposals in all new development, including light spill and energy use, is minimised through design or technological solutions (including the use of SMART lighting techniques) or by controlling the hours of use;d) safety is not compromised in low lit or dark public areas. <p>2) Development will be expected to retain or improve the darkness of rivers, watercourse or other ecological corridors in particular to protect or provide a functional dark route for European protected species. Lighting must be designed to protect wildlife habitats following best practice as set out in current guidance including B&NES 2018 Waterspace Design Guidance and Bats and Lighting in the UK (ILP, 2018).</p> <p>3) Lighting in public areas should be designed to a suitable level of illumination in accordance with BS 5489-1 2013 and where appropriate, ensure consistency with Bath Lighting Strategy and other relevant guidance and where necessary the hours of operation will be controlled by the use of conditions.</p> <p>LPPU Policy</p>
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The lighting impacts will affect heritage/conservation, long-distance views (from Grand Parade out and from the WHS setting into the city), and local impacts (on homes, and on key historic buildings especially the abbey and Pulteney Bridge).

To mitigate all those impacts, FoBRA supports Conditions limiting the number of evenings and the hours of lighting usage on site (e.g. no later than 10pm).

There needs to be clarification on the pitch regeneration strategy and a condition which explicitly prohibits the use of accelerated regenerative 'grow' lighting (such as UV or similar).

Equally we would expect a prohibition on any illuminated advertising signage/hoardings surrounding the ground.

The extensive use of glazing along the riverside is of concern in potentially interfering with the relatively dark nightscape and sensitive ecology in the area. Proposals should conform to the newly issued Guidance Note GN08/23 Bats and Artificial Lighting At Night, noting that this addresses measures for reducing light spill from internal lighting and also explicitly points out that the fact that planting should never be relied on as the sole means of attenuating light spill because it may be removed, die back or be inadequately replaced over time.

Updated comments on Lighting

- We welcome the proposal to include enclosed blinds within the window units along the riverside to prevent light spill onto the river corridor. This (and their use from dusk to dawn) needs to be an enforceable condition, and does not remove the need for the retention of the riverside trees.
- The other matters raised in our original comments do not appear to have been addressed and our comments remain valid.
- The proposed installation of large TV screens requires additional measures to prevent light from these (which may be flashing or otherwise disturbing) intruding into residential homes.

(v) **Crowd Management/Security/Safety**

Current arrangements for managing matchday crowds have evolved organically through serial use of temporary planning applications. They are not fit for purpose, but the application doesn't appear to envisage material change. In the interests of safety and security strict Conditions must be applied reflecting NPPF Para 97 to keep those attending matches and those moving around the area safe. The impending Martyn's Law principles should be embedded in such Conditions.

Safety in streets in the vicinity of the venue must also be reviewed against the letter of 21 February 2020 from the Chief Constable of Avon & Somerset Police to B&NES in which the Chief Constable advised the area is a "significantly crowded place", in which a "particular threat" from international terrorism is "acute", whilst also recommending that measures be put in place for the precautionary protection of this area. Bath Rec and Bath Rugby were explicitly cited in the list of risk factors:

There is an acknowledged threat to the United Kingdom from international terrorism and past experience has demonstrated that this particular threat is acute in intensely crowded places. The City of Bath is a UNESCO World Heritage site and major tourist destination, it has also been identified as a significant crowded place. It is home to Bath Abbey, the Roman Baths, Southgate Centre and the Rec (home of Bath Rugby) amongst many other culturally and natural significant sites. It is also known for events such as the Christmas Market, Bath Half Marathon and Remembrance Sunday parades as well as being home to two Universities.

The absence of any crowd management or traffic restrictions in very busy public realm spaces such as Great Pulteney Street, Laura Place, Pulteney Bridge open to traffic is incongruous with the security context of 2023. Many of those leaving the Rec (whatever the nature of the event at the stadium) will have been drinking which adds to the inherent risk.

Entrances on the northern side of the Rec are dangerous and/or do not conform to appropriate standards in terms of gradients as the application acknowledges. The steps from Pulteney Bridge down to the riverside are dangerous, with the worst pinch point of **just 100cm width** for two-way pedestrian traffic. Pavements on Pulteney Bridge are less than 2m wide, especially on the southern pavement which reduces from about 170cm at Grand Parade to as little as ca. 155 cm near the steps (with intermittent further narrowing of both pavements to ca. 1m due to A boards and shop paraphernalia). Before and after matches the roadway on Pulteney Bridge is full of pedestrians mingling with permitted traffic, which is incompatible with the Chief Constable's advice. Other users (local pedestrians, tourists and disabled people) should be able to move in the opposite direction without having to step into the road or feel overwhelmed by the the crowds moving in the opposite direction.

Pedestrian flows to the south side of the ground also need to be managed safely to control pedestrian flows on North Parade Road in a way that is compatible with maintaining it as vehicle access to the venue and maintaining its vital function as a key bus route.

It is essential that the application is used to address/regulate/regularise current failings as well as applying mitigations to impacts of additional events/capacity. The cost to be met by the developer.

Updated comments on Crowd Management/Security/Safety

- Our original response highlighted the apparent omission of consideration of the safety-related issues relating to mixing of pedestrians and vehicles on the North side of the stadium. There is little proposed to address this.
- In fact the revised proposals seem designed to make this worse, with a substantial increase in the number of people using the William Street entrance, and the proposal to shut North Parade Bridge before and after matches inevitably redirecting more vehicles over Pulteney Bridge.
- We note that no account appears to be taken by the applicants of the much higher baseline of pedestrian use on the North Side of the stadium (where access routes are acknowledged not to be fully DDA compliant), with high concentrations of tourists, shoppers, local residents visiting or transiting the area between Pulteney Bridge and Sydney Gardens/Holburne/K&A Canal. The existence of such counterflow pedestrian footfall seems to have been ignored.

(vi) Heritage/Conservation

Many key views do not appear to have been considered in the application documents, particularly views from the WHS Setting into the city, or views to/from the Pulteney Estate. These need to be provided to enable complete understanding of impact on the WHS and Setting. This applies also at night, where the impact threatens to be major (see Lighting above).

Stated data asserting increased visitor numbers, even if achieved, need to be seen in perspective relative to the vastly higher numbers of visitors who visit for Bath's historic buildings and heritage, of which the views and enjoyment of the surrounding green setting are an integral part as reflected in the Double World Heritage Site UNESCO inscriptions – the City of Bath and one of the Great Spas of Europe. The potential for failure of the tenant which would leave an unused and decaying stadium that would pose a threat to the more important heritage tourism is a material concern and should be dealt with by requiring an indemnity from the developer to protect the council and the city from the worst aspects of this risk should professional Rugby cease to be a viable use at the facility.

Given the landmark nature of the project, the quality of the detailed design of the stadium and public realm should be embedded through construction phases by the appointment of a design review panel to approve material selection and ensure no value engineering/cost cutting amendments which could diminish the design and material integrity of the resulting built stadium. This panel should be made up of professionals with experience in landmark schemes and should be given "sign off/advisory" role.

Updated comments on Heritage/Conservation

- FoBRA welcomes reduction in proposed heights at the ends of the new Stands. However, the maintaining of the higher centre portions of the stands mean the changes will have only limited impact on harm to OUV views from the City Centre to the green setting.
- The illustrations of visual impact on the important Grade I Listed Pulteney Estate remain inadequate. More thorough evaluation of the visual impacts on Pulteney Estate and of the physical impacts on the foundations of these Grade I Listed buildings both directly (through construction works) and indirectly (through disturbance of underground watercourses in this alluvial plain) is needed.
- The redesign of the East Stand is not an improvement, introducing a wooden finish that is incongruous with the Conservation Area location, and incorporating steps and raised areas that threatens to attract night-time antisocial behaviour.
- We reiterate that we believe an independent design panel is needed to assure a higher quality of architectural design and delivery.

(vii) Loss of Green Space and treescape

The proposed development will extend significantly beyond the current rugby stadium, extending around 37metres further into the playing fields. This represents a significant loss of green open space in central Bath and B&NES need to be vigilant to ensure that this loss is mitigated and that the remaining area of the Rec remains available for a variety of sports considering gender and social inclusion, not solely for rugby.

We would like more protection of the tree canopy and a clear condition that trees will not be removed along the riverside walk. The non-symmetrical quality of the riverside trees does not

qualify any of them for removal and we would like this as a clear condition and for them to have additional protection against further damage or interference.

Updated comments on Loss of Green Space and treescape

- We welcome the small reduction in footprint (with encroachment into the Rec reduced by ca. 1m) but this is minimal compared to the proposed loss of green space. Our earlier comments on loss of green open space therefore remain valid.

- We had asked for protection of riverside trees. In contrast, the revised plans propose removal of several extra trees along the riverside including three of the large mature tulip trees. This will introduce gaps which break the continuity and tarnish the visual appearance of this row of large trees which is a characteristic view within the city.
- If any trees are to be removed (which we oppose) they should be replaced by like-for-like trees of equivalent mature stature, on the site itself, as befits the Vision of Policy SB2 of an enhanced green infrastructure throughout the area.

(viii) Flood risk

It is unacceptable that neighbouring homes can be under Environment Agency Flood Warning (with official advice to evacuate their homes) whilst the stadium operator continues planning for a match notwithstanding that the arriving crowd will be using the evacuation routes available to residents. [See e.g. January 2023 when a Flood Warning was issued to neighbouring homes in the early hours of 13 January 2023 but plans to hold a match on 14 January with a full capacity crowd of 14,500 people continued for over 24 hours until called off for apparently unrelated reasons relating to the state of the pitch.] A comprehensive Flood Emergency Plan should be required as part of the planning application to ensure proper scrutiny is possible by impacted local people as well as by relevant statutory consultees. This Flood Emergency Plan should encompass the responsibility of considering the safeguarding of spectators within the ground and in the surrounding vicinity given the "bottle neck" nature of the exits.

We expect, given local and national policy framework for these issues to be addressed through more detailed information defined and provided by the applicant and through formalised planning conditions set by B&NES Planning Authority.

Updated comments on Flood Risk

- We are disappointed to see the continued lack of transparency around Flood Emergency Planning, and are concerned to have noted a number of errors in the submitted document with regard to matters of fact relating to evacuation triggers and history of flooding on the site.
- Our earlier comments therefore remain valid, especially with regard to the need for key components of the Flood Emergency Plan to be settled within the main application to ensure proper scrutiny is possible by local residents requiring simultaneous access to constrained evacuation routes.

ix) Construction Management Plan

We expect a full Construction Management Plan dealing with all key construction-related issues to be submitted **within** the Planning Application, **not** merely required as a Condition. This is essential due to the constrained nature of the site and access, the constrained nature of Bath's highways layout, the extremely close proximity to a quiet residential area, the inevitable impacts of heavy site vehicles on pedestrian, cycle and car access to the city centre, and the Georgian architecture across the city with common occurrence of under-road vaults that are often structurally linked to those road-side heritage buildings. We suggest:

The Construction Management Plan to include (but not limited to):

- **All** site traffic (including vans and cars as well as heavy vehicles) to use the North Parade Road entrance only
- **All** site traffic to use the Main Delivery Route (Vehicles 18T & over), Main Delivery Route (Vehicles under 18T) and Minor Delivery Route as defined in Figure 4.5 Construction Vehicle Access Routes of Chapter 4 Development Specification within the Environmental Statement (ie only A36, A4 East and A367 respectively). **No site traffic should enter any residential road.**
- There should be **no** work on Saturdays
- There should be no reversing alarms used on site – "reversing operations should be carried out under supervision of a banksman at all times."

Updated comments on Construction Management

- Further information about Construction Management appears superficial and to disregard the unique and constrained nature of the site as well as the high vulnerability to noise, vibration and pollution of the closely adjacent Grade I Listed buildings.
- Our previous comments therefore remain valid.

Transport – see FoBRA Transport Comments of 30 October 2023

- There has been some updating of the traffic data, with counts taken in 2024. However, this 2024 data was measured from 1 to 8 June 2024 during the six week closure of North Parade. The disruption of traffic during the closure of North Parade was very substantial in eastern Bath, with re-routing of hundreds of buses, extremely high levels of congestion on local roads including junctions at Bathwick roundabout, Beckford Road/Bathwick Street and Cleveland Place, and large numbers of drivers choosing different routes. The extended periods of standing traffic cannot have provided representative data for baseline conditions or for matchday traffic on 8 June.
- The traffic flow data base for the analyses of impact has been compiled from data used in a number of recent planning applications including Bath Quays North, the former Bath Press site, Wells way garage, Bath Gas Works, Aequus (Upper Bristol Road), and the former MOD site on the Warminster Road. The data assembly is described in the Environmental Assessment Statement report 18V2, Appendix 18.1 (Cumulative assessment – transport) ***but none of the tables showing this data identify the source/sources.***
- The Transport and Access Impact Assessment omits key roads at A36 Pulteney Road and Lansdown Road, the former being a key route in the close vicinity of the stadium and the latter being a key access route into Bath from the M4 and other routes.
- Data presented for the stadium with a capacity of 18,000 would result in an increase in the numbers of cars by approximately 1000. Given the limited residual capacity in City Centre car parks, even with the full use of Park and Ride capacity, there would be a shortage of car parking available (other than street parking).
- The Draft Travel Plan deals only with rugby – much more information is needed with regard to transport and access relating to non-rugby events. Further, data is not provided with regard to many of the day-to-day usages. The actual transport impact is therefore still unexplained although based on stated restaurant/bar/conferencing facilities/capacities of 7-days/week or ca. 114 days p.a. as well as other stadium usages it would very substantial.
- A number of potential mitigation measures are mentioned in the Travel Plan. These need to be fully defined and secured by Condition to ensure they are implemented in practice. Analogous Conditions are essential for other uses.

Finally, we would like to object to the lack of viability assessment report in the application. Given the scale of the project, the complexity of construction in a historically sensitive location, an environmentally sensitive/high flood risk location, the current financial risks associated with the retail and hospitality sectors and the threat of litigation associated with imposing noisy concert events in a poorly sound insulated residential neighbourhood (as seen with the Real Madrid stadium development legal challenge). Add to this the ongoing risks associated with Rugby as a sport

associated with player concussion and the risk of overspend on complex stadia in a challenging construction market (e.g. Everton FC) the developing partners should be required to demonstrate the financial viability of the project in a viability report published as part of the planning application and available on the planning portal for public scrutiny.

FoBRA whilst supporting the principle of improved facilities for the Rugby Club must therefore reiterate its concerns that this planning application remains incomplete, that key reports relating to viability are missing and key reports relating to noise and transport impacts require further clarification.

FoBRA Committee 3rd February 2025