

Planning Report for FoBRA Committee Meeting 20 July 2017

Regeneration of Foxhill Estate (16/05219/EOUT)

Since the PSC's last report to FoBRA, on 5 June CURO submitted "Technical Evidence" to support their renewed application for outline planning permission to demolish 542 dwellings, including 95 owner-occupied homes, on the Fox Hill estate and to replace these with 706 new homes, thereby losing some 241 social homes. By a process best described as gradual and planned attrition, this evidence has seemingly persuaded many of the Council's departments, including, importantly, 'Planning Policy' and 'Housing Services' to withdraw their objections to CURO's proposals. Exceptions remain 'Urban Design', 'Landscape' and 'Archaeology'. Interestingly, 'Housing services' seem satisfied that the regeneration [of any of the site] cannot be effected without the build and sale of market housing and thus the loss of 241 social homes is deemed acceptable. Underlined extracts from their comments of 9 June are reproduced below:

"...[they] remain acutely aware of the tensions around a redevelopment-focused regeneration and the loss of social housing units, but feel that the case for regeneration has been made through the latest submission and the ongoing dialogue with the developer. The outcome of the independent viability testing on the justification to deliver only to 30% policy compliance position is awaited but work commissioned by Housing Services on Housing Zone viability give a clear indication that redevelopment on Foxhill alone is not viable and that across the two development sites that comprise the Housing Zone (the former MOD Foxhill site and the Foxhill estate), no more than 30% AH can be secured without external funding. This is beyond the scope of the planning application and Housing Services continues to work with Curo around maximising delivery should external funding be identified."

They conclude: "We await the outcome of the viability testing around increased affordable housing provision but as stated are not expecting further independent scrutiny of development finances to secure any additional affordable housing delivery without the use of external subsidy. Housing Services recognises that this is an outline application establishing the maximum parameters for potential redevelopment of the application area. **It is the individual reserved matters applications that will determine the scale and detail of redevelopment work and the proposed s106 agreement allows for the detail on the nature of affordable housing to be determined at each reserved matters stage, within this overall framework and in line with SPD requirements in place on at the time.**

The PSC believes that 'Housing Services' probably consider that their 'get out jail card' is the piece highlighted in bold, but experience would suggest that the problem with this tactic is that once outline permission is granted the reality is there is little to stop the regeneration from going ahead pretty well as planned. Both the FRA and the Ward Councillor (now the Cabinet Member for Development) are very disappointed at the erosion of official objections. It is not yet known when the Development Management Committee (DMC) will consider this application. On a more positive note, to date there are 270 comments on the B&NES planning portal, 246 objections, 8 in support and 16 comments. Let's hope that good old common sense will prevail at the DMC, ay which FoBRA will request to speak.

Christmas Market (17/02121/FUL)

To the relief of most residents, and the Walcot Street Traders Association (which represents hundreds of independent traders and retailers, Bath Tourism Plus (BTP), the Destination Marketing Organisation for Bath, submitted a planning application for only 18 days 2017 -2019 but with an expanded footprint. Many of the chalets will be relocated to

Union, Southgate and Hot Bath streets, and the organisers will run a number of fringe community engagement events in Walcot Street, Kingsmead Square and Queen Square to allow visitors to explore and enjoy more of what Bath has to offer. There will be no increase in the number of chalets and as such BTP hope there will be more circulation and less congestion. A decision awaited but likely to be positive. It is still anticipated that a 'residents only' event at the beginning of the market (22 November 6 – 8pm). The Christmas Market itself is planned to run from 23 November until 10 December 2017

Wansdyke Business Centre (17/00955/FUL)

The re-submission of an application to demolish the existing buildings and structures for a mixed-use development of 126 student studios, commercial units, a fitness centre with associated access, parking etc was refused by the DMC on 2 June 2017 because it was deemed that its height, scale, massing, dense plot coverage, architectural style, external materials, and general appearance, would undermine the character and appearance of the area and constitute an incongruous feature within this otherwise predominately Victorian residential area. It is anticipated that the developers will appeal.

'Party Houses': No.5 Belvedere (17/02592/FUL)

Background. FoBRA members are well aware that new and unregulated 'party houses' are on the increase often with no planning consent, no payment of business rates, no fire safety checks and no gas, water or electricity checks. Candles and alcohol do not mix from a fire safety perspective, and given that most of these houses have a large number of short term residents 'crammed in' with the only means of emergency egress via the only [wooden] staircase, it looks like accidents or disasters are waiting to happen. Added to which the noise disturbance is very concerning for the neighbours' right to quiet enjoyment of their own property, with loud music played during the day, especially with windows open to get the sound into the garden (and heard by all immediate neighbours, too) coupled with shrieking laughter and music until 2am or 3am when returning from a night on the town.

Planning application. The owners of No.5 Belvedere (just north of the Julian Road/Guinea Lane junction in Lansdown Road) have applied for planning permission for change of use from C3 (normal residential dwelling) to *sui generis*, "commercial leisure accommodation (holiday accommodation)"; in other words, for short term lets. The property, accommodating up to 16 guests, has been used [illegally] as an Airbnb or a party house for hen and stag parties for the past 18 months and as, much to the frustration and annoyance of neighbours who, unsurprisingly, have complained of loss of amenity through excessive noise, disruption and general disturbance. As a result of their complaints the Council imposed an enforcement order and invited the owner to submit a planning application for change of use.

Objections. As such, even though Vineyards RA, CARA, ABCPRA and other city centre RAs may not be affected directly by the use of this particular house in the way proposed, they are concerned at the ever-increasing number of short-term rentals (party houses), not just in the City centre, being used in this way. Vineyards RA, CARA and ABCPRA have or will submit comments and objections to B&NES's planners, and the PSC have observed that the main issues for the Council's DMC to consider are for them to make a factual determination as to whether the current use of 5 Belvedere represents a material change of use from residential Class C3 and, if so, to decide whether such change of use should be permitted. Vineyards have also referred to a case in Suffolk where the Inspector identified the key issues relating to such a change of use as the pattern of arrivals and departures, with associated traffic movements; the unlikelihood of occupation by family or household groups; the numbers of people constituting the visiting groups on many occasions; the likely frequency of party type activities; and the potential lack of consideration for occupiers. The pattern of arrivals and departures may

not be a major issue in central Bath, but these houses are seldom occupied by family or household groups; the numbers are large; they frequently involve party type activities, and display lack of consideration for neighbours.

In the Suffolk case, the Court of Appeal held that the Inspector had approached this correctly. However, the PSC has also been advised that the Appeal Court ruled that whether the use of a dwelling for commercial holiday lettings amounts to a material change of use is a question of fact and degree in each case and the answer depends on the particular characteristics of the use as holiday accommodation. The courts have taken a very narrow view of what characteristics are relevant and have demanded a very high standard of proof. So, arguably, none of this is primarily a question of council policy.

B&NEs has moved on in its position because they originally refused to make use of the Appeal Court judgement, for fear of costly appeals, but following some lobbying have now applied it with some limited success and have occasionally been able to make use of this judgement and enforce change of use. However, in most instances, the applicants have successfully argued that they fall outside the criteria required to enforce an application for change of use. In No.5's case the applicant's agents have reserved the right to argue that a change of use application is not needed. However, now 10 residents in properties neighbouring No.5 Belvedere have provided factual evidence of the noise and disturbance created by the use of this property for short-term commercial lettings, often for hen and stag parties, and the harmful effects of this on the character of the area. One of the Ward Councillors has also submitted his objection on noise and health grounds. To the PSC it is clear that there has in fact been a material change of use of the property, and Vineyards, CARA, ABCPRA and the PSC believe that the application should be rejected on the grounds of the serious adverse effects on the amenity and health of nearby residents and on the character of the Conservation Area.

The Wider Impact. In addition to the specific objection to this planning application, Vineyards believe that DMC should take into account the wider implications of the proliferation of these establishments (currently 48 properties offering 666 bedspaces knowing to have 10+ beds, with many more offering <10 bedspaces). Each one of these properties removes accommodation from the long-term housing stock, at a time when B&NES is under pressure to increase the availability of housing, especially affordable housing, and if this process is allowed to continue unchecked, residents will be driven out and the character of central Bath will completely change. If the DMC concludes that the application should be rejected, which FoBRA will encourage it to do, it will have made a determination that there has been a material change of use from residential Class C3. We would hope that enforcement action would follow as required to ensure that the use of the property for short-term letting cease.