

----- Forwarded by Joan
McTigue/Councillors/Middlesbrough_Borough_Council/GB on 21/06/2006 10:37

Joan
McTigue/Councillors/Middlesbrough_Borough_Council/GB
B
To
streetwise.insider@googlemail.com
cc
21/06/2006 09:50
Subject
Fw: Middlesbrough Demolition and Erimus

Take it elsewhere please!
----- Forwarded by Joan
McTigue/Councillors/Middlesbrough_Borough_Council/GB on 21/06/2006 09:53

"Streetwise Insider"
<streetwise.insider@googlemail.com>
To
joan_mctigue@middlesbrough.gov.uk
cc
21/06/2006 06:26
Subject
Middlesbrough Demolition and Erimus

Dear StreetWise,

Somebody calling him/herself the 'Ethical Hacker' sent me the following text which claims to come from somebody called BB emailing:

Jen (maybe of the Standards Board of England)

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Message Follows
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Subject: Middlesbrough Demolition and Erimus

Hi Jen,

Can you please comment on why you said the following in your judgement?

'I accept what you say about possible future benefit to the councillors on the Erimus board, but this is purely speculative: at the moment, the board members are not remunerated. I also accept your points about the benefit to Erimus from the proposed development plan, but I have found no evidence that the councillors would personally benefit and they would be able to rely on paragraph 10(2)(c) of the code of conduct, which specifically allows councillors to participate in discussion of bodies to which they have been appointed by the council . '

>You are not making sense - It says one thing and concludes another!!!

'I accept what you say about possible future benefit to the councillors on the Erimus board'

'I also accept your points about the benefit to Erimus from the proposed development plan'

BUT

'found no evidence that the councillors would personally benefit'

Jen, let's hope that rebel Walker does act on this and urge the Council to ask Erimus to change their constitution as your finding is clear:

'They not currently receive any remuneration but Erimus's articles contain provision for the board to allow remuneration of board members. On 30 April 2004, the council's executive member for housing authorised the payment of £20,000 to the then board members for expenses incurred on the setting up of the company, together with £20,000 which was paid to a company providing training for them. '

and if benefit is 'purely speculative' is it NOT ALSO POSSIBLE? Or is it MOST PROBABLE?

Then to cap it all your point 13 says:

'I therefore consider that Councillors Carr, Brady and Thompson had a personal interest in the report. As they did not disclose this interest, I consider that they failed to comply with paragraph 9 of the code of conduct.'

Jen, you should also be aware that the legal officer of the local authority (Richard Long) denied they ever received 20,000 in expenses!!!

Let's hope this gets swept under the carpet.....

As always keep your standards up,

BB

enc. Your Full Judgement

I refer to my letter dated 1 November 2005 and advise that the investigation of your allegation against Councillors Brady, Thompson and Carr of Middlesbrough Council has now been completed. I have considered the facts as presented to me.

I have also noted the comments you made in your letter of 10 November 2005. I accept what you say about possible future benefit to the councillors on the Erimus board, but this is purely speculative: at the moment, the board members are not remunerated. I also accept your points about the benefit to Erimus from the proposed development plan, but I have found no evidence that the councillors would personally benefit and they would be able to rely on paragraph 10(2)(c) of the code of conduct, which specifically allows councillors to participate in discussion of bodies to which they have been appointed by the council.

1. Mr Ashley Marron, a resident, alleged that at a meeting of the Executive Committee of Middlesbrough Council meeting held on 20 July 2005, Councillors Robert Brady, Paul Thompson and Mike Carr failed to declare a personal and prejudicial interest in a report entitled 'Building Sustainable Communities in Inner Middlesbrough – the Way Forward' ['the report']. The report contained details of a proposal for acquisition and demolition of homes in central Middlesbrough where Erimus Housing Limited has properties and the councillors were alleged to have a prejudicial interest in the report by virtue of their membership of the board of Erimus.
2. Erimus was incorporated as a private limited company on 17 December 2002 and is a Registered Social Landlord (RSL) and registered charity. In November 2004 the council transferred its housing stock and staff to Erimus, which now exercises most of the council's housing functions. Its constitution provides that its board is to consist of 15 members, of which five are to be appointed by the council, five appointed by the tenants and five elected by all the members as independent board members.
3. In June 2005, Erimus joined a partnership known as Spirit formed by designer Wayne Hemingway, consisting of five other housing groups in the north-east.

4. Councillors Brady, Carr and Thompson were all appointed to the board by the council and Councillor Brady was elected by the board as its chairman. They do not currently receive any remuneration but Erimus's articles contain provision for the board to allow remuneration of board members. On 30 April 2004, the council's executive member for housing authorised the payment of £20,000 to the then board members for expenses incurred on the setting up of the company, together with £20,000 which was paid to a company providing training for them.

5. The executive committee meeting of 20 July 2005 was attended by Councillors Carr, Brady and Thompson in their capacities as respectively Deputy Mayor, executive member for Scrutiny and Oversight and executive member for Education and Skills. Before the committee was the report from the Director of Regeneration referred to above. The report set out a detailed strategy for the redevelopment of central Middlesbrough, including plans for the compulsory acquisition and demolition of 1,500 homes (30% of them being in private ownership), together with the introduction of compulsory registration for any remaining private landlords, the building of 750 new homes and the renovation of 2,000 existing homes.

6. The report noted that consultation exercises showed that 53% of the residents in the area to be demolished disagreed with the proposal while 32% agreed with it (15% being 'unsure'), although in other areas, there was majority support and overall there was 47% support.

7. The report noted [paragraph 25] that 'considerable effort has been made to engage with other organisations that operate in the area, who may be affected. This includes potential partners who, it is hoped, will play a vital part in investing in the future of the area, such as RSLs and private developers'. It further noted that 'Clearly, RSLs will play a key part in re-housing displaced residents' [paragraph 63].

8. At paragraph 88 the report noted that 'the council already has a wide experience of working with development partners, and it has found that such partnerships can be extremely fruitful and mutually beneficial'. At paragraph 89 it noted that: 'Two RSLs, Erimus Housing and Endeavour, already have considerable property interests in the redevelopment area. Partnering with an RSL will bring a range of added skills, whilst their role as future housing providers will also be explored, both to support decanting, and for the provision of new housing'. At paragraph 90 the report proposed 'that at an early stage, the council selects RSLs to work with as preferred partners'.

9. The costs of the proposed strategy were given at paragraph 98 as in the region of £110 to £160 million pounds. The minutes of the meeting held on 20 July confirm that no declarations of interests were made with regard to this matter. The executive committee approved the strategy detailed in the report and made detailed provisions for bringing it into effect.

10. The council's code of conduct states that a member must regard himself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 14 and 15 of the code. This includes membership or a position of general control or management in any body to which the member has been appointed or nominated by the authority as its representative; a public authority or body exercising functions of a public nature; a company or a charity. A

member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

11. The code of conduct states that a member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest. A member with a prejudicial interest in any matter must withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting.

12. I consider that the report considered by the committee on 20 July 2005 'related' to Erimus as the company was specifically mentioned in it and was envisaged as a potential participant in the strategy it outlined. I also consider that Councillors Carr, Brady and Thompson were required to register their membership of Erimus' board under paragraph 15 of the code of conduct, as they were appointed to Erimus by their council and Erimus is both a 'company' and a 'charity' as well as 'exercising functions of a public nature'.

13. I therefore consider that Councillors Carr, Brady and Thompson had a personal interest in the report. As they did not disclose this interest, I consider that they failed to comply with paragraph 9 of the code of conduct.

14. While I consider that Councillors Carr, Brady and Thompson had a personal interest in the Council's consideration of the report, I do not consider that their unremunerated position on the Board of Erimus as representatives of the council was likely to prejudice their judgment and impair their ability to judge the public interest in relation to a report on the vision for Middlesbrough's older housing areas for the next 15 years. Accordingly I do not consider that Councillors Carr, Brady and Thomas had a prejudicial interest in the council's consideration of the report. Even if there were a prejudicial interest I consider that the members could have sought to rely upon the provisions of 10(2)(c) to allow participation. I consider that the members did not fail to comply with paragraph 10 of the code of conduct.

15. Accordingly I do not consider that Councillors Carr, Brady and Thomas had a prejudicial interest in the council's consideration of the report and did not fail to comply with paragraph 10 of the code of conduct.

16. In relation to the failure to declare a personal interest, I take account of the fact that Councillors Carr, Brady and Thompson's interest in Erimus was well known to the other councillors (who had appointed them to the position) and to the public, as they refer at length to their position with Erimus on their council websites (councillors at Middlesbrough have adopted the practice of publishing annual reports on their websites detailing their activities). In those circumstances, and on the understanding that Councillors Carr, Brady and Thompson in future declare their council appointments as personal interests, my finding, under s59(4)(b) of the Local Government Act 2000, is that no action needs to be taken in respect of this matter.

Please note that there was an error in the notification letters sent to the parties: it was not intended that the second and third allegations (that the meeting room on 20 July 2005 was too small and that the committee refused to discuss motions put by observers) should be investigated, as these did not appear to disclose a breach of the code of conduct. I examined the allegations in any event, and agree that they do not disclose a breach of the code of conduct. We are sorry that you were not notified sooner of the position.

These paragraphs are confidential. Whilst my finding may be disclosed, the detail of this letter may contain information, which under section 63 of the Local Government Act 2000 ("the Act") must not be disclosed except in the specific circumstances set out in the Act. If disclosed this could result in an offence under the Act.

In line with the objectives of the Standards Board for England to promote confidence in local democracy and to provide guidance for members on the Code of Conduct, a summary of my final finding and the reasons why I reached this finding will be posted on the organisation's website (www.standardsboard.co.uk) in due course. A copy of this summary will be forwarded to you in due course and may be disclosed.

I am required by the Act to inform the Monitoring Officer of Middlesbrough Council and Councillor Brady, Thompson and Carr of the outcome of the investigation and am therefore sending them a copy of my final findings and the reasons why I have reached them.

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