

OVERVIEW AND SCRUTINY BOARD

A meeting of the Overview and Scrutiny Board was held on 29 November 2007.

PRESENT: Councillor Carr (Chair), Councillors Bishop, Biswas, Cole, Cox, Dryden, Mawston and Williams.

OFFICIALS: J Bennington, P Clark, R G Long, J Ord, N Sayer and T White.

**** PRESENT BY INVITATION:** Councillor Budd (Executive Member for Economic Regeneration and Culture) and Councillor Hubbard (originator of the request to Call-In the decision)
B Williams, Chief Executive, Erimus Housing Limited.

**** PRESENT AS AN OBSERVER:** Councillors Kerr, McPartland, McTigue, Purvis and K Walker.

****APOLOGIES FOR ABSENCE** were submitted on behalf of Councillors Ismail, Rooney, Sanderson and Ward.

DECLARATIONS OF INTEREST

Name of Member	Type of Interest	Item / Nature of Interest
Councillor Cole	Personal/Non Prejudicial	any matters relating to Erimus Housing - a relative is a tenant of Erimus Housing
Councillor Dryden	Personal/Non Prejudicial	any matters relating to Erimus Housing – a relative is a tenant of Erimus Housing
Councillor Hubbard	Personal/Non Prejudicial	any matters relating to Erimus Housing – a relative is a tenant of Erimus Housing

NORTH EAST AMBULANCE SERVICE – AMBULANCE CONTACT CENTRES

In a report of the Scrutiny Support Officer the Board was advised of the outcome deliberations by the Tees Valley Health Scrutiny Joint Committee (29 October 2007) and the Board (22 November 2007) concerning the proposals of the North East Ambulance Service NHS Trust around the location of ambulance contact centres. The proposals centred on having two ambulance contact centres, one in Newcastle and one in Hebburn, South Tyneside which would involve the closure of the centre at Ladgate Lane in Middlesbrough.

The Board at its meeting on 20 November 2007 had sought clarification on a number of areas and had expressed concerns summarised as follows: -

- a) the timescale of the overall consultation did not provide sufficient scope for detailed analysis of the consultation's responses and the views of the Cleveland Emergency Planning Unit about its plans;
- b) lack of evidence regarding the statement that the local labour market in Hebburn was more suited to the recruitment of appropriate staff for the second site as judged by Catalyst, independent consultancy;
- c) the material benefits to local people and future patients of NEAS proposals remained unclear;

- d) although it was noted in the Consultant's report that for reasons for business continuity, contact centres should not be less than 15 miles apart the Newcastle/Hebburn model appeared to be around 9 miles apart.

Reference was also made to the motion made by the Council at its meeting held on 28 November 2007 opposing the proposed relocation and to work with other authorities and interested parties to ensure an ambulance control facility was retained and based locally, to serve the Tees Valley area.

ORDERED that the report be approved and referred to the Executive.

APPOINTMENT OF CHAIR FOR REMAINDER OF MEETING

At this point of the proceedings the Chair, Councillor Carr vacated the chair and left the meeting.

ORDERED that Councillor Mawston be appointed Chair for the remainder of the meeting.

ERIMUS HOUSING – GROUP STRUCTURE PROPOSALS

A report of the Scrutiny Support Officer had previously been circulated regarding the meeting, which had been arranged in accordance with the Council's Call-In procedure. The Call-In related to decisions made at a meeting of the Executive held on 13 November 2007 relating to Erimus Housing and Group Structure proposals.

The main components of the report of the Scrutiny Support Officer were as follows: -

- a) a copy of the report entitled Erimus Housing – Group Structure Proposals considered at a meeting of the Executive held on 13 November 2007 which set out the following:-
- i) Erimus Housing which had been established in November 2004 to receive the Council's housing stock from Middlesbrough Council was seeking the support of the Council to set up a new Group Structure with Tees Valley Housing Group;
 - ii) the report presented to the Executive contained an appendix which had illustrated the reasons for the proposals and outlined the implications for both Erimus and the Council;
 - iii) a Special General Meeting of Erimus had been scheduled for 10 December 2007 and the Executive had been recommended to support the proposals and should this be forthcoming a representative be nominated to exercise the Council's vote at the meeting;
- b) the decisions taken at the meeting of the Executive held on 13 November 2007 were as follows:-
- i) That the contents of the report submitted by Erimus Housing including the revised Memorandum and Articles of Association be noted.
 - ii) That the proposals for Erimus Housing to set up a new group structure with the Tees Valley Housing Group be supported.
 - iii) That the Chief Executive be authorised to nominate a representative to exercise the Council's vote at any General meeting of Erimus Housing to give effect to the required amendments to its constitution.
- c) details of the Call-In procedure;
- d) the reasons given to the Authority's Proper Officer, which had initiated the Call-In Procedure as follows:-

The decision to allow Erimus Housing to merge with Tees Valley Housing is opposed, as there is concern that the formation of a parent board could impinge on any outstanding agreements made with Middlesbrough Council in November 2004.

Furthermore, the Council did not get any indication of a representative of the Council would be on the new parent board before the decision was taken.

As part of his introduction the Chair outlined the order of proceedings for the meeting.

The Executive Member for Economic Regeneration and Culture referred to the rationale of the proposals; what would happen if no action was taken; and the implications of supporting the proposals for Erimus and tenants all of which had been taken into consideration by the Executive in taking a decision. The basis of the decision taken by the Executive was that essentially the relationship between the Council and Erimus Housing would remain the same.

Bernard Williams, the Chief Executive of Erimus Housing Limited emphasised the key reasons for the proposals. Erimus Housing operated in accordance with a business plan a key feature of which was the significant reduction of housing stock, 12,000 at the point of transfer and currently 11,000. Such a reduction in property numbers placed significant pressure on Erimus Housing's income from rents, which would result in the need of reduced overheads in order to maintain the viability of the organisation.

The Board of Erimus had explored ways of raising additional income, which had included regeneration opportunities and diversification. Following a detailed option appraisal the Board of Erimus had determined that the preferred option was to enter into a Group Structure with Tees Valley Housing Group. Erimus Housing would continue as a Housing Association and responsible for operational activities but would share overheads such as IT, human resources and finance and direct resources to front line services.

It was considered that a combination of tailored local delivery arrangements together with a wider range of skills and expertise could enable the new group to make a major contribution to meeting the housing and regeneration needs of Middlesbrough.

The Director of Legal and Democratic Services provided background information to the report presented to the Executive held on 13 November 2007 including the following: -

- Middlesbrough Council was no longer a landlord and a key requirement of the Transfer Agreement between the Council and Erimus Housing Limited was to achieve the Government's Decent Homes Standard for the transferred stock by 2010;
- As Erimus Housing Limited was a company the Council had an interest in the decision and its involvement related to one of the terms in the Articles of Association which provided that one third of the membership of the Erimus Board (five persons) could be appointed by the Local Authority;
- The final decision would be made at an Extraordinary General Meeting of the Erimus Board to be held on 10 December 2007;
- It was confirmed that under the envisaged arrangements Erimus Housing's obligations to the Council under the Transfer Agreement would remain unchanged;
- The Board of the Parent Company would comprise nine members, three nominated from Erimus Housing, three from Tees Valley Housing Group and three from new independent members.

Councillor Hubbard was afforded the opportunity of asking questions of the Executive Member for Economic Regeneration and Culture and Officers during which the following points had been raised: -

- a) clarification regarding the appointments to the Board of the Parent Company;

- b) confirmation given that in accordance with the requirements of the Housing Corporation Section 62 of the Articles of Association provided that the parent company could appoint and had the power in certain circumstances to remove from office any or all of the Board Members but not the Local Authority Board Members.

Councillor Hubbard outlined the reasons for invoking the Call-In procedure emphasising the following key issues: -

- i) it was considered that the presentation of the report at the meeting of the Executive held on 13 November 2007 did not fully outline the implications of the proposals;
- ii) the perception gained from the Executive Summary sheet of the report which stated that the matter was a non key decision and therefore had no significant impact on two or more wards and was not over the financial threshold of £75,000, was that the matter was a small issue and of little consequence for Middlesbrough Council;
- iii) it was felt that the meetings of the Erimus Board had been arranged hastily before having the decision of the Council;
- iv) the proposals were seen as having the potential of severe impact on both the Authority and tenants of Erimus Housing;
- v) the understanding of the appointments to the Board of the Parent Company was that there may not be a representative from Middlesbrough Council or a tenant member and therefore there was a concern as to who was looking after the interests of the Council and residents;
- vi) an assurance was sought that Erimus Housing would retain its separate identify and operational independence under the proposals;
- vii) reference was made to the requirements of the Communities and Local Government Department in relation to group structures which contained a provision which permitted Erimus to leave the group in the future and it was also asked what penalties were in place should Erimus wish to do so;
- viii) evidence should have been provided to substantiate the statement in the report under the risk appraisal in which it stated that if Erimus does not approve the suggested course of action it would be under increasing pressure to reduce costs in line with the declining income thus presenting a risk to future service delivery.
- ix) evidence was also sought regarding the extent of detailed consultation with every tenant;
- x) it appeared that although the promises given to tenants upon the transfer had yet to be fulfilled there intended to be changes which resulted in a parent group with no legal obligations to complete the tasks;
- xi) the company's registered office was to be situated in England and not Middlesbrough as indicated in the Memorandum and Articles of Association;
- xii) in terms of sections 4.1 and 4.7 of the Company's objectives it was stated that references to Middlesbrough had been removed and it as considered that their commitment could now be focussed on areas outside of Middlesbrough;
- xiii) clarification was sought as to what guarantees there were for the 385 employees that had been subject to TUPE from Middlesbrough Council and who were currently in the Teesside Pension Fund would be allowed to continue to pay into such fund;
- xiv) information was sought on the implications of the section relating to the establishment of a Subsidiary and the acquisition of shares with particular regard to future land sales;

- xv) concern was expressed regarding the potential implications of section 5.16 of the Memorandum of Association especially in terms of redundancies;
- xvi) concern was also expressed in respect of sections 5.27 and 8.1 of the Memorandum of Association as it was considered that this provided the potential for any assets currently owned by Erimus Housing being sold for developing areas of the Tees Valley housing and elsewhere;
- xvii) it was considered that section 62 of the Articles of Association would mean that the Board of Erimus Housing would have no power and that representatives of the Council could be rejected.

The Executive Member for Economic Regeneration and Culture was afforded the opportunity of asking questions of Councillor Hubbard. The main points arising from such discussion and issues of clarification were as follows: -

- reference was made to the business plan of Erimus Housing which was updated annually a key feature of which had been the significant reduction in property numbers which placed significant pressure on Erimus Housing's income from rents;
- the current relationships between Erimus and the Council and tenants would remain the same;
- the only other options available for the registered office of the parent company could be Wales or England and Wales;
- it was confirmed that both Erimus and Tees Valley Housing Group were based in Middlesbrough.

Members of the Overview and Scrutiny Board posed questions of all parties the responses from which focussed on the following: -

- a) it was considered unlikely that Erimus would relocate from Middlesbrough;
- b) all bids from Erimus Board to the Housing Corporation were for development in Middlesbrough;
- c) the Council's ability to enforce the provisions of the Transfer Agreement would be unchanged by the proposals;
- d) clarification was given regarding the appointment to the Board of the Parent Company, TUPE and tender arrangements;
- e) confirmation was given that the proposals did not constitute a merger but involved the creation of a group structure, a new parent organisation, the Board arrangements for which would ensure that the interests of the subsidiary companies were adequately represented but demonstrated an degree of independence to enable registration with the Housing Corporation;
- f) reference was made to a number of key benefits of the proposed arrangements in particular the replacement of sufficient stock; increased ability to achieve significant operational efficiencies; increased potential for further investment in improved services; and two organisations which had highly complementary expertise.

Following closing submissions of the Executive Member for Economic Regeneration and Culture and Councillor Hubbard the Board discussed the evidence received and considered its decision.

The main observations of the Board Members on the evidence presented were as follows: -

- i) assurances regarding the nominations of Council representatives on the new Parent Board were noted;
- ii) the Council's ability to enforce the provisions of the Transfer Agreement would be unchanged by the proposals;
- iii) the increased potential for achieving improved services was noted;
- iv) the safeguards in maintaining the Council's current position were noted;
- v) recognition of the need to take appropriate action to secure service delivery;
- vi) proposed monitoring arrangements were noted.

ORDERED that the decision taken by the Executive at its meeting held on 13 November 2007 be not referred back on the basis of the evidence presented.