

PETER ROST M.P.



HOUSE OF COMMONS

LONDON SW1A 0AA

The Rt Hon Margaret Thatcher M.P.

01-219-3000

The Prime Minister,

Secretary & Messages

10 Downing Street,

04427 6123

WHITEHALL,

London S.W.1

28th of December, 1987

Dear Prime Minister

I fully appreciate the extent of your 'post-bag' and hesitate to add to it, however, the situation which has developed over the education proposals for the Ilkeston area in Derbyshire, has become very serious indeed.

I enclose a letter which I have received from Mr A.J.Bridges, a parent governor of Ilkeston School, which puts the outline of the problem fairly succinctly. Briefly, the proposals seemed to be about to be approved, then there was a delay and then they were rejected. On the 18th of December, however, this decision was suddenly over-turned and the proposals were accepted.

Obviously, there is more to this which you should know about. On the 25th of June, I wrote to Kenneth Baker expressing grave concern over the 'cosy' relationship which appeared to exist between the left-wing labour controlled Derbyshire County Council and the Department of Education, which had led to an 'inspired leak' well publicised throughout Derbyshire that the Secretary of State was about to approve the socialists' plans for the re-organisation of education in the Ilkeston area. I received a letter back, dated the 6th of July from Bob Dunn, not only emphatically denying any collusion, but also stating that no decision had been made, that the Derbyshire authority had been invited to the DoE 'to discuss certain aspects of the proposals' and that the 'LEA's proposals...remain very much an open question.' On the 28th of July, I was telephoned at my home by Bob Dunn, who told me that the Secretary of State was about to

sign the approval of the Ilkeston proposals. I was encouraged to telephone Kenneth Baker and to plead with him to reject these proposals, which are unanimously felt by all, other than the Matlock socialists, to be completely contrary to the Secretary of State's own guidelines. Some time after my call, I was telephoned and told that Kenneth Baker had rejected the proposals on the grounds that 'they would constitute a reduction in parental choice.'

Derbyshire County Council, predictably, reached for their lawyers and threatened a judicial review. On the 17th of December, at 11.0pm I was called in to see Kenneth Baker, who was with Bob Dunn. I was told that the decision of the 28th of July would not stand and was being replaced with one which had been made by Bob Dunn, acting on the Secretary of State's behalf, on the 23rd of June and that the Secretary of State could not 'withdraw that approval'. I was further asked not to make anything public until Monday the 21st, when Derbyshire would be notified.

I was telephoned the next morning, the 18th of December, by the press. Derbyshire County Council had made sure that everyone had a copy of the letter of 'approval'. I managed to read the letter with a magnifying glass from the reproduction on the front page of the Derby Evening Telegraph. I received a copy finally, by Data Post, from the DoE on Christmas Eve after I had complained that the Conservative leader of the Council, Education Spokesman, the Heads and non-socialist governors of the schools concerned, as well as myself, had had no copy of the letter.

I really cannot let this matter rest. Apart from the contradictions which we have had from the Secretary of State and his Minister, the proposals which now seem to have been approved are directly against his own guidelines, involving as they do the closure of one of the two most popular schools in the area and the destruction of the Vith Form of the other!

*L. E. O.
R. E. O.*

TEMPORARILY
RETAINED

J. Gray

14/3/2016

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3.(4)
OF THE PUBLIC RECORDS ACT

21/12/87

Dear Mrs Thatcher,

I am writing to ask you to intervene in a decision recently reached by your Secretary of State for Education regarding the reversal of a decision he made in respect of reorganisation of Secondary Education in the Ilkeston area of Derbyshire. The facts of the case are as follows:-

1. Derbyshire County Council issued a proposal for reorganisation of Secondary Education for 11 to 16 year olds together with proposals for the provision of 16+ education.
2. A group of interested & concerned parents and staff from Ilkeston School put forward a viable alternative to the County Plan which would cause far less disruption than the County Plan.
3. This alternative plan was put to Mr R. Dunn at a meeting in May 1987. This meeting was arranged by Mr P. Rest MP.
4. The Secretary of State for Education rejected the County Council proposals and threw them out, July 1987.
5. Recently Derbyshire County Council applied for a judicial review of the situation & have been told by Mr Baker that his original decision to reject, was not lawful.

Obviously the case is far more comprehensive than mentioned above and would take a considerable time to explain in detail.

I would suggest to you that the situation has now been reached whereby a left wing Labour Authority is being backed by your Government in implementing its proposals.

The decision reached by Mr Baker recently, goes against

your Government's Education policy in that the most successful schools should be allowed to develop. The proposal will not allow the same freedom of choice for parents. The new merged school will be on a split site, half a mile apart. There are no firm proposals for capital spending at the new merged school. It will cause a massive upheaval to both children and staff. All the above points seem to be in total conflict with your Government's Policy.

It would appear that a "deal" has been arranged between Derbyshire County Council and Mr Baker in reaching his decision, I refer to the Sixth Form provision at Ecclesbourne School, Duffield and John Port School, Etwall, Derbyshire.

Anyone who has studied the situation in detail would come to only one conclusion and that is that the County proposals are a recipe for disaster. I doubt whether the viable alternatives have been considered by Mr Baker.

I would therefore appeal to you to apply some logic and sense to the situation and instruct the Secretary of State for Education to again reverse his decision and reject the Derbyshire County proposals. Mr Peter Rost MP is very well aware of the situation and would provide any relevant details.

I am a very disillusioned supporter of your Government's Education policy in the light of the above.

Yours hopefully

Mr A. J. Bridges

PARENT GOVERNOR
ILKESTON SCHOOL.
(and a very concerned
parent.)

PETER ROST M.P.



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Secretary & Messages

04427 6123

Rt Hon Kenneth Baker M.P.,

Secretary of State,

Department of Education & Science.

Elizabeth House,

York Road,

LONDON SE1 7PH

21st of December, 1987

Peter Rost

At our meeting at 11.0pm on the 17th of December, I was asked to keep the decision which you were to make about the Derbyshire County Council's proposals for the Ilkeston area, confidential until Monday the 21st of December. I was also assured that I would have a copy of the letter which the Department was to send to Matlock. Since our meeting, I have four mailings from the House of Commons and still have no copy of the letter in question. I have managed to read the letter, however, with the aid of a magnifying glass from its reproduction on the front page of the Friday 18th of December's edition of the Derby Evening Telegraph. Any embarrassment I may have caused you, is more than equalled by the experience I have had with the National Press and media telephoning me, with everyone, it seems, having a copy of your letter to Matlock (received Friday morning) except myself, the leader of the Conservative Group and Mrs Noskwith the Conservative Education Spokesman. It seems that only the labour opposition are to be supplied with any information! Was this intentional to prevent us taking any action?

However, my embarrassment is only a very minor issue. I, and my constituents, have obviously been both deceived and betrayed by the Department of Education and Science. I would ask for straight answers from you, not your Under-Secretary of State, to the following questions:-

1. Why was I not given a copy of the letter to Matlock on the 17th of December?

2. I enclose a copy of my letter to you of the 25th of June, following the most 'embarrassing' to me, 'leak' from the Department. Please re-read this letter, which is a fair statement of the situation in Derbyshire. I enclose a copy of the reply from Bob Dunn of the 6th of July, to my letter of the 25th of June. Please explain how he could write in such terms to me, knowing that he had already approved Derbyshire's proposals?

3 Why was I encouraged to speak to you, by Bob Dunn, on the 28th of July on the understanding that you were 'considering' the proposals, if they had already been 'considered' by him on the 25th of June?

4. Miss A F Brown's letter to Matlock (ref S910/4/054) of the 28th of July 1987 is, I presume, some sort of joke on the part of the DoE in order to make me and my Conservative colleagues in Derbyshire, look stupid. May I have a copy of the official letter of approval of Derbyshire's proposals of the 25th of June (which Bob Dunn seems unaware of in his letter of the 6th of July!)?

5. How can you consistently, approve proposals put forward by Derbyshire which are in direct contra-diction, on all counts, to your own stated guidelines?

You cannot imagine what the impact is on the parents of children at the schools in Derbyshire which the socialists are seeking to destroy, when they see pictures of you patting youngsters in neat school uniforms on the head and talking about 'parental choice' and 'standards', when they have seen their own children's schools deliberately deprived of funding and teachers, uniforms banned and parental choice a mockery! You mentioned Ilkeston School's Vith Form's results, and I presume that you have not seen the latest results which show a marked improvement and return to Ilkeston's normal high standards, neither have you considered the way in which Derbyshire deliberately refused cover at the school during the teachers' disputes. So, you would judge a school, which had no cover given for illness, had the numbers of teachers reduced and was



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severely affected by the strikes, against an FE College which had a much wider constituency, considerably better staffing and resources and had no problems with disputes, and find the school wanting?

I may be an irritation to you and your Under-Secretary of State but I would point out that I am at least trying to protect my constituents and three good schools from the socialists controlling the County Council. At least now 'common justice' would require you to come to Ilkeston and to see for yourself the consequence of your own actions. Let me show you the two excellent schools you are aiding in destroying.

Yours truly

Bob

(Ref SCHOOLS DOE5)

The Rt Hon Kenneth Baker M.P.,
Secretary of State for Education & Science,
Dept of Education & Science,
Elizabeth House,
York Road,
LONDON
SE1 7PH

25th of June, 1987

IN CONFIDENCE

I was most concerned yesterday to be telephoned by my local press in Ilkeston, Derbyshire, to be asked for my comments on "the approval of the County Council's plans for Ilkeston Schools, by the Minister!" I was so amazed that I reserved my comments. On investigation, I find that the proposals have not 'yet' been approved and that it seems that someone in the DES had 'jumped the gun' and informed Derbyshire County Council!

My serious concern is twofold; firstly, that there should be such a direct link between this extreme, left-wing LEA and the DES, which might indicate a lack of impartiality in the advice given by officials on Derbyshire's plans and secondly, in the apparent lack of confidentiality in the DES.

The recent election campaign has done nothing to revise my extreme worries about Derbyshire's grip on education. We have found evidence of intimidation of teachers, governors and other staff, of apparent nepotism and other morally corrupt practices. I really have sent people on request in 'unmarked cars' to private houses, to hear what is happening in certain schools! Very many people, parents and teachers alike, voted conservative, because of our promises to wrest education from the grip of the left-wing at Matlock.

cont/

Ilkeston School, the former Grammar School at which D H Lawrence was once a teacher, is rejoicing at the conservative victory and the prospect of becoming one of the first to become 'independent' of the comrades at Matlock, and of reasserting those values of academic discipline which are not favoured by the left. I would regard any decision on Derbyshire's proposals which harms these aims of Ilkeston School, as a direct betrayal of their trust and of our stated policies.

Since gaining office, the left-wing in Derbyshire have systematically set about removing officials who do not 'suit their thinking'. I have marked this letter 'confidential' as there is a genuine fear of reprisal common at all levels of the educational establishment. When I brought, recently, a group of representatives from schools affected by closure and merger proposals by the LEA, to see Bob Dunn, the heads in each case had been approached by the senior county education adviser and a union representative from the education committee and pressured not to attend; pressure, which I regret to say they found unable to resist! As one teacher once put it to me "...they have got rid of a Chief Constable, County Surveyor, Chief Executive, Chief Fire Officer and numerous others, who am I to take them on?"

I am aware that usually, and with good reason, the submissions from LEAs backed by their officials and advisers are given great weight by the DES when examining proposals affecting schools. I hope that I have given some indication why I feel that great caution should be exercised in Derbyshire's case, especially as it would appear that someone in the DES might have a line of contact with them. I will be seeing Bob Dunn shortly, about this situation (hence my copying this letter to him), but I would like to make it quite clear that as I regard the proposals for Ilkeston as completely outside and contrary to the DES guidelines for the reorganisation of education, I will resist loudly and long, if there is any endorsement of them by a conservative government!



DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE YORK ROAD LONDON SE1 7PH

TELEPHONE 01-934 9000

FROM THE PARLIAMENTARY UNDER-SECRETARY OF STATE

Peter Rost Esq MP
House of Commons
London SW1A 0AA

6 July 1987

Dear Peter

Kenneth Baker has asked me to reply to your letter of 25 June as I have been dealing with the Ilkeston proposals.

I have noted carefully all you say about the political complexion of the Derbyshire authority and the bearing that this has on the proposals. As you know, the Secretary of State has a duty to consider such proposals on their individual merits. This detailed consideration is proceeding and we have now invited the authority to discuss some aspects of the proposals with us.

So far as the Department is concerned I believe you are under a misapprehension. Officers in the Department routinely have extensive contacts, on a wide range of matters including schools reorganisation, with officers of the Derbyshire LEA, as they do with those of all other education authorities. In this instance, as a result of a series of unfortunate misunderstandings here, an officer of the Department understood that she had authority to tell the authority, in confidence, that formal approval was to be given to the Ilkeston proposals, when in fact no such decision has been made. I am sorry for any embarrassment this may have caused you and I have taken steps to ensure that errors of this kind are not repeated. I have however complete confidence in the integrity and impartiality of the officials who advise me on these matters - though I do not necessarily follow their advice in every instance.

I understand the strength of local feeling on the future of Ilkeston School and you can be assured that the Secretary of State will bear this in mind in considering the LEAs' proposals, which remain very much an open question.

Yours ever
Bob

BOB DUNN

Mr Coleman
Mr Norbury
Miss Brown ✓

MISS GILBEY

R V SECRETARY OF STATE FOR EDUCATION EX PARTE DERBYSHIRE
COUNTY COUNCIL: ILKESTON

I have now examined Derbyshire's application for judicial review, the Department's file S910/4/54 and the submission file of that number. It seems to me that in the circumstances which have happened the Department is not in a position to defend these proceedings.

It appears that Schools Branch forwarded a submission to Mr Dunn's office on 6th May 1987 recommending approval of Derbyshire's proposals. On 19th June it appears that Mr Dunn's private secretary in a manuscript note informed the Minister that there was pressure for a decision to be made and asked him if he approved the proposals. It appears that at some point between the submission of that manuscript note and some time on 23rd June Mr Dunn gave his approval. The manuscript note of 19th June bears what appears to be a confirmatory tick, the private secretary's manuscript note to the Minister of 23rd June refers to "the decision taken on the Ilkeston proposals" and offers a speaking note which says "the Secretary of State has decided to approve these proposals" and goes on to give reasons for doing so.

Miss Brown confirms that in the late afternoon of 23rd June she telephoned Derbyshire LEA and informed Mr Jenkin in the Education Department in confidence of the decision. She promised to send a letter confirming what she had said on the following morning. It appears that on the morning of the 24th June Mr Peter Rost MP who somehow had got to hear of the decision telephoned the Secretary of State to say that he was unhappy with the decision. Following that conversation it appears that the Secretary of State wished to review the decision and the LEA was informed by telephone that the Department would like to discuss the proposals with them. I presume, as is alleged by the applicants, that the LEA was also informed that the previous day's message was incorrect.

In my view those facts indicate that approval was given to Derbyshire's proposals pursuant to section 12(6) of the 1980 Act, at the latest, when Miss Brown told the LEA on the telephone of Mr Dunn's decision. It is of course trite law that a decision by a junior minister is a decision of the Secretary of State (see Carltona Ltd v Commissioners of Works (1943)). It is arguable that for the purposes of section 12(6) the Secretary of State does not "approve" proposals until his assent to them is communicated to the

LEA. Approval under section 12(6) need not involve the doing of an irrevocable act, such as occurs when the Secretary of State makes regulations by signing and dating them. It is also relevant that the significance of approval is to give rise to the duty in section 12(9) on a LEA to implement approved proposals. Until the LEA is told of the decision, therefore, it is arguable, particularly in a case where the person approving the proposals does so without committing anything to paper, that the proposals are not "approved" within the meaning of section 12(6).

In the present case, however, (and leaving aside any significance to be attributed to the confirmatory tick) the LEA were informed of the decision taken. I think communication to an official and communication which is oral is sufficient. In the present case, according to the applicants, the decision was also communicated to the Chairman of the Education Committee. In these circumstances, I see no grounds on which the Department could contend that no approval had been given on 23rd June. I have considered whether the subsequent revocation of that communication by a similar telephone call on the following morning might permit of a different conclusion. Although it can be said that the authority would have done nothing to implement the proposals before receiving the second communication and so in that sense would not have been prejudiced by a reconsideration of the decision, I do not think such considerations are relevant to determining the point at which proposals are approved for the purposes of section 12(6). I therefore conclude that Derbyshire's proposals were approved by the Secretary of State at the latest on 23rd June. There is no provision whereby an approval can be revoked, so that the letter of 28th July purporting to reject the proposals in my view is of no effect.

In view of the implications of this advice for the Secretary of State's position I am asking Treasury Solicitor to obtain Treasury Counsel's views on the point. If he confirms this advice, I think it would be appropriate for the Department to write to Derbyshire indicating that in the light of the advice it has now obtained it has to inform Derbyshire that its proposals were approved on 23rd June. I would expect Treasury Solicitor then to invite Derbyshire to withdraw their application on terms that the Crown pays Derbyshire's costs.

For the sake of completeness I would add that I do not regard paragraphs 12 and 13 of the application as well founded. Whilst section 12(3) guarantees the rights of objection laid down there, I do not think it prohibits the Secretary of State from taking into account objections submitted directly to him and objections by fewer than 10 local government electors for the area. However, as paragraph 14 implies, it is incumbent on the Secretary of State in reaching his

decision to act fairly and this requires him to give proposers an opportunity to comment on such non-statutory objections.

In the present case the reason given in the decision letter of 28th July was not one on which the authority had not had an opportunity to comment: it appears at paragraph 2(i) of Mr Dunn's briefing note of 14th July and is mentioned in paragraph 2(3) of the exhibit to Mr Jenkin's affidavit.

The difficulty in the present case, however, is whether the Secretary of State took into account an irrelevant consideration in deciding to reject the proposals. According to the applicants, the Secretary of State was influenced by party political considerations and/or the possibility of providing an opportunity for Ilkeston School to take advantage of the Government's proposed opting out legislation. If the case were to be pursued, it would be necessary for evidence by or on behalf of the Secretary of State to be adduced dealing with these allegations. On the latter point, the Divisional Court in R v Secretary of State for the Environment ex parte Birmingham City Council (The Times 30th March 1987) held that in deciding to refuse to make a rate support grant report for 1987/8 the Secretary of State for the Environment was entitled to take into account the presence of a Bill before Parliament which would render the report otiose. I doubt, however, whether a court would regard the existence of a Government policy to introduce legislation some months in the future and which in any event would only provide others with an opportunity to opt out if they so wished, as a relevant consideration in considering section 12 proposals. However, for the reasons already given, I do not think we need pursue this aspect.

Alan D. Preston

A D PRESTON
Legal Branch
2 December 1987