



Peter ROST MP

25/1

file

to 79

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

18 January, 1988.

NEA,

See marked

passage in §2 of

DES note at Flag B.

"intended to approve" ≠ "this decision". N.C.U. 22, MA 24,

1. Mr. Wicks - 15 Dec.

2. GR - DES will be letting me have something on Monday.

The Prime Minister has seen the draft reply to Mr. Peter Rost, M.P., about the re-organisation of schools in Ilkeston, Derbyshire, which we discussed last week. She has also read the confidential background note you provided.

The Prime Minister is not satisfied with the explanation provided, and is not content to sign the draft reply. She has commented that the case is a terrible mess and cannot be explained away so easily. She has particularly noted that, if the letter of 6 July from Mr. Dunn said that no decision had been made, then surely the "decision" of 23 June can only have been a provisional one. Mr. Dunn, presumably, must know whether or not a real decision was taken at that time.

I should accordingly be grateful for a fuller account of the background, which will need to address the particular point raised by the Prime Minister. I think it would also be helpful to have copies of the letters concerned, and an indication of any views of Treasury Counsel on the point.

(M.E. Addison)

GA

Chris de Grouchy, Esq.,
Department of Education and Science.

This letter is

not signed, see note

o - Dates memo of
16th January. This case
is a terrible mess and it
can't just be explained away
like this no



10 DOWNING STREET

LONDON SW1A 2AA

THE PRIME MINISTER

Dear Peter,

Thank you for your letter of 28 December, enclosing one from Mr. A.J. Bridges about the reorganisation of schools in the Ilkeston area of Derbyshire.

I fully understand your concern about achieving the best possible education for pupils in Ilkeston, and your determination to put forward the views of your constituents on Derbyshire LEA's plans. I know how forcefully you have argued your constituents' case to Kenneth Baker, and I understand your continuing anxiety.

As you know, under the provisions of the Education Act 1980, Local Education Authorities are empowered to make proposals for the reorganisation of their provision of schools, and it is the duty of the Secretary of State for Education and Science to consider any such proposals on their merits. The Derbyshire proposals, once published, were looked at very carefully against the Government's published guidance. This explains the need for Education Authorities to respond to the immediate and long term effects of sharply falling age groups. It also makes clear that the Secretary of State would not normally be prepared to approve the closure of a school of proven worth unless there was evidence that it could not continue to sustain its established quality, and that the proposals for change would secure at least the same quality and variety of education at lower cost.

As regards the events leading to the Department's letter to the Authority of 18 December, I understand that you have already spoken to Kenneth Baker, and that he has explained to you why he felt obliged to authorise that it should be sent. I much regret the misunderstandings and confusions which have arisen, and I appreciate that you would welcome a different decision. But, like Kenneth, I must accept the legal position. Now that Derbyshire's reorganisation proposals have been approved, there is no power left to Kenneth to reverse that approval. Consequently there is no room for me to intervene.

Peter Rost, Esq., M.P.

PRIME MINISTER

THE REORGANISATION OF SCHOOLS IN ILKESTON, DERBYSHIRE

This is a sorry tale of Departmental incompetence and bad luck. Peter Rost's letter at Flag A sets out his understandable concern. The Department of Education have provided a confidential background note at Flag B.

There is clearly a good deal of constituency feeling that the local education authority's proposals for a tertiary college were unacceptable. Mr. Rost's campaign against the proposals was therefore understandable. The fundamental difficulties the Department faced when confronted by the application for a judicial review have been compounded by poor communication with Mr. Rost, and failure to make sure he was aware of the steps being taken by the Department. But, when all is said and done, the Department's decision has now been subject to review by the courts, and it is therefore not possible for you or indeed Ministers at the DES to change the decision.

Mr. Rost, I understand, played a small unwitting part in this by gaining a good deal of publicity for the Department's U-turn, before the law intervened.

A sympathetic draft reply to Mr. Rost is attached at Flag C for your signature, but it has to contain a firm indication that there is, unfortunately, nothing you can do to help.

MEA
MEA

14 January, 1988.

But if the letter of 6th July
from Bob Dunn says that
no decision has been made is on the
file - surely the 23rd June "decision" can
only have been provisional. It will be
must know whether or not
be decided.
not



R13/1

ELIZABETH HOUSE
YORK ROAD
LONDON SE1 7PH
01-934 9000

Mark Addison Esq
10 Downing Street
London SW1

13 January 1988

Dear Mark

You asked for a draft letter for the Prime Minister to write to Mr Peter Rost MP reformulated from that enclosed with my letter to you of 8 January.

I enclose a new draft.

Yours

Chris de Grouchy

C G L DE GROUCHY
Private Secretary

2 Feb.

DRAFT FOR PRIME MINISTER TO WRITE TO MR PETER ROST MP

Thank you for your letter of 28 December, enclosing one from Mr A J Bridges about the reorganisation of schools in the Ilkeston area of Derbyshire.

I fully understand your concern about achieving the best possible education for pupils in Ilkeston and your determination to put forward the views of your constituents on Derbyshire LEA's plans. I ~~am aware how eloquently~~ ^{know how deeply} you have argued your constituents' case to Kenneth Baker and I understand your continuing anxiety.

As you know, under the provisions of the Education Act 1980, Local Education Authorities are empowered to make proposals for the reorganisation of their provision of schools and it is the duty of the Secretary of State for Education and Science to consider any such proposals on their merits. The Derbyshire proposals, once published, were looked at very carefully against the Government's published guidance. This explains the need for Education Authorities to respond to the immediate and long term effects of sharply falling age groups. It also makes clear that the Secretary of State would not normally be prepared to approve the closure of a school of proven worth unless there was evidence that it could not continue to sustain its established quality and that the proposals for change would secure at least the same quality and variety of education at lower cost.

As regards the events leading to the Department's letter to the Authority of 18 December, I understand that you have already spoken to Kenneth Baker and that he has explained to you why he felt obliged to authorise that ~~it~~ should be sent. I much regret the misunderstandings and

confusions which have arisen, and I appreciate that you would welcome a ^{different} decision, ~~otherwise~~. But, like Kenneth, I must accept the legal position. Now that Derbyshire's reorganisation proposals have been approved there is no power left to Kenneth to reverse that approval. Consequently there is no room for me to intervene.

20/1



ELIZABETH HOUSE
YORK ROAD
LONDON SE1 7PH
01-934 9000

M Addison Esq
10 Downing Street
London SW1

8 January 1988

Dear Mark

In response to your letter of 30 December 1987, I enclose a draft on the lines of which my Secretary of State recommends that the Prime Minister should reply to Mr Peter Rost MP's letter to her of 28 December.

By way of background I also include copies of the most recent correspondence between my Secretary of State and Mr Rost (Mr Rost's letter of 21 December and Mr Baker's reply of 7 January) and a brief note about the case for No 10's use only. I hope that these enclosures will be self-explanatory.

*Yours
Chris*

CGL DE GROUCHY
Private Secretary

DRAFT FOR PRIME MINISTER TO WRITE TO MR PETER ROST MP

Thank you for your letter of 28 December, enclosing one from Mr A J Bridges about the reorganisation of schools in the Ilkeston area of Derbyshire.

Under the provisions of the Education Act 1980 Local Education Authorities are empowered to make proposals for the reorganisation of their provision of schools and it is the duty of the Secretary of State for Education and Science to consider any such proposals on their merits. The proposals were looked at very carefully indeed against the Government's published guidance on their policies in the Department's Circular 3/87 which points out the need for Authorities to respond to the immediate and long-term effects of sharply falling age groups, particularly for the 11 to 19 age range. That guidance also makes clear that the Secretary of State would not normally be prepared to approve the closure of a school of proven worth unless there was evidence that it could not continue to sustain its established quality and that the alternative proposals would secure at least the same quality and variety of education at lower cost.

As regards the events leading to the Department's letter to the Authority of 18 December, I understand that Kenneth Baker has already explained to you why he felt obliged to authorise that that letter should be sent. Now that Derbyshire's reorganisation proposals have been approved there is no power left to Kenneth Baker to reverse that approval and, consequently, no room for me to intervene.

SS/179/25



ELIZABETH HOUSE
YORK ROAD
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01-934 9000

Peter Rost Esq MP
House of Commons
London SW1A 0AA

7 January 1988

Ken Peter

You wrote me a further letter, on 21 December, about the Ilkeston proposals. I understand that you now have a copy of the Department's letter to the Authority, but I must repeat the apologies made on my behalf about the manner of the announcement. I much regret this.

On substance, I think I need not in this letter repeat what I have said except to confirm that the general guidance on the organisation of schools which I have issued is in Circular 3/87, which was published in the early summer of last year; and that I do look very carefully indeed at any proposals made to me under the 1980 Education Act which involve the closure of schools with good records. When we talked most recently I explained that I was taking the action I have now taken on the basis of firm legal advice I have received, that I was not empowered to decide to reject the proposals in July, an earlier decision having in effect been taken in June.

You pose a number of questions in your letter about advice you were given earlier and about what was said to the Authority. So far as the earlier events were concerned, Bob Dunn's letter to you of 6 July, which you enclosed with yours, explained that there had been some misunderstandings within the Department on the basis of which the Authority was informed that a decision had been made. I have already explained to you that in the light of legal advice which I have received these earlier events constituted a decision which, under the provisions of the Education Act 1980, it was not open to me to reconsider. I felt myself obliged to direct that the Department's letter of 17 December should be sent. I really do not think that there is anything further I can usefully add.

I do understand your feelings, and your concern and am very sorry about the way this proposal has been handled.

Yours ever
Kenneth

X

DERBYSHIRE LEA'S STATUTORY PROPOSALS FOR THE REORGANISATION OF PROVISION IN THE ILKESTON AREA: BACKGROUND NOTE FOR NO 10'S USE ONLY

1. Proposals were published on 16 January 1987 by Derbyshire LEA to cease to maintain Cantelupe County Secondary School (11-16) and Ilkeston County Secondary School (11-18) with effect from the end of the summer term 1988 and to establish in their place a new mixed county secondary school for pupils aged 11-16. Post-16 provision would be provided in the existing South East Derbyshire Tertiary College. The proposals attracted some strong objections. In addition, Mr Rost brought deputations from both schools to see the PUSS, Mr Dunn, on 13 May 1987.
2. The proposals were considered in the Department in the light of the guidance in Circular 3/87 and of an analysis of objections made to them and of the Authority's comments on these objections, and a submission made to Ministers. Mr Dunn indicated on 22 June that he was minded to approve the proposals and that Mr Rost should be informed. As a result of a misunderstanding within the Department this decision was communicated orally and in confidence to the LEA on 23 June. Following this the Secretary of State held a meeting with the Authority and there were further telephone conversations between the Secretary of State and Mr Dunn with Mr Rost. The Authority was informed in writing on 28 July that the proposals had been rejected.
3. There were then local press reports that Mr Rost was claiming that he had been responsible for reversing a decision to approve the proposals. The Authority sought, and was granted, leave to seek a judicial review of the Secretary of State's decision. The reliefs sought were an Order of Certiorari to quash the decision and an Order of Mandamus requiring the Secretary of State to reconsider the proposals in accordance with the law on the grounds among others that in sending the rejection letter the Secretary of State had acted illegally in that he permitted Mr Rost to by-pass the statutory procedure for objections laid down in Section 12(3) of the Education Act 1980.
4. In examining the files to prepare a reply the Department's lawyers came to the view that, in the light of the documented evidence available on the files, together with that orally communicated to the LEA in June, a decision had in effect been taken at that point by Mr Dunn, on behalf of the Secretary of State. Treasury Counsel confirmed that this would have to be revealed. The Secretary of State has no powers under the Education Act 1980 to change a decision on a proposal published under the terms of Section 12 of that Act once a decision has been reached in his name. In consequence the further consideration that was given to the case by the Secretary of State and Mr Dunn after Mr Rost's interventions in July and subsequently was irrelevant, and his later decision therefore invalid.

CONTD

5. The Secretary of State decided that he was obliged to authorise a letter to the Authority to state that the decision communicated to them on 23 June should stand and that the proposals should therefore be regarded as approved. He told Mr Rost on the evening of 17 December that he would be taking this action. A letter was sent to the Authority on 18 December accordingly.

DES

January 1988

Peter Rost MP
13/11



FILE
PA

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

30 December 1987

I enclose a copy of a letter which the Prime Minister has received from Peter Rost MP, together with correspondence from Mr. A.J. Bridges.

I should be grateful if you would provide a draft reply for the Prime Minister's signature, to reach this office by 13 January.

(Mark Addison)

Chris de Grouchy, Esq.,
Department of Education and Science.

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10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

30 December 1987

I am writing on behalf of the Prime Minister to thank you for your letter of 28 December, with which you enclosed correspondence from Mr. A.J. Bridges.

I will ensure that you receive a reply as soon as possible.

I am returning an unsigned letter to a Judith Whyte which was also enclosed with your letter in error.

(Mark Addison)

Peter Rost, Esq., M.P.