

THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S GOVERNMENT

CP(73) 20

COPY NO

67

20 February 1973

CABINET

DEFAULT BY CLAY CROSS URBAN DISTRICT COUNCIL
UNDER THE HOUSING FINANCE ACT

Memorandum by the Secretary of State for the Environment

VIEWS OF DERBYSHIRE COUNTY COUNCIL

1. As foreshadowed in paragraph 11 of CP(73) 17, the Minister for Housing and Construction has had a private meeting with three leading members of the Derbyshire County Council. Their view was that the Council would be willing, if the Clay Cross councillors do not appeal and are disqualified next week, to appoint persons to act in the place of the Clay Cross Urban District Council. They were divided on whether those persons' functions should include the Council's functions under the Housing Finance Act or whether it would be preferable for me to appoint a Housing Commissioner to undertake them.

IF THE CLAY CROSS COUNCILLORS APPEAL

2. We still have no certain knowledge whether the Clay Cross councillors intend to appeal against the decision of the district auditor. If they do, they will remain in office and will form the Clay Cross Council until the appeal has been disposed of, and no action on the part of the county council could be taken in the meantime.

3. If the council continue their maverick behaviour, eg encouraging a rent and rate strike, there are no comprehensive powers to replace them unless special legislation is passed - presumably in general terms in order to avoid hybridity.

4. The council might be directed to perform their statutory duties by writ of mandamus. But this would probably result in the councillors being committed to prison for contempt of court - a piece of martyrdom which they might welcome.

THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S GOVERNMENT

CP(73) 20

COPY NO

67

20 February 1973

CABINET
-----DEFAULT BY CLAY CROSS URBAN DISTRICT COUNCIL
UNDER THE HOUSING FINANCE ACTMemorandum by the Secretary of State for the Environment

VIEWS OF DERBYSHIRE COUNTY COUNCIL

1. As foreshadowed in paragraph 11 of CP(73) 17, the Minister for Housing and Construction has had a private meeting with three leading members of the Derbyshire County Council. Their view was that the Council would be willing, if the Clay Cross councillors do not appeal and are disqualified next week, to appoint persons to act in the place of the Clay Cross Urban District Council. They were divided on whether those persons' functions should include the Council's functions under the Housing Finance Act or whether it would be preferable for me to appoint a Housing Commissioner to undertake them.

IF THE CLAY CROSS COUNCILLORS APPEAL

2. We still have no certain knowledge whether the Clay Cross councillors intend to appeal against the decision of the district auditor. If they do, they will remain in office and will form the Clay Cross Council until the appeal has been disposed of, and no action on the part of the county council could be taken in the meantime.

3. If the council continue their maverick behaviour, eg encouraging a rent and rate strike, there are no comprehensive powers to replace them unless special legislation is passed - presumably in general terms in order to avoid hybridity.

4. The council might be directed to perform their statutory duties by writ of mandamus. But this would probably result in the councillors being committed to prison for contempt of court - a piece of martyrdom which they might welcome.

5. In such a situation the early appointment of a housing commissioner to implement the Housing Finance Act might take some of the steam out of the situation and result in the council acting more rationally in other fields. But there is no knowing whether they would, and they might do their utmost to frustrate the commissioner.

IF THE CLAY CROSS COUNCILLORS DECIDE NOT TO APPEAL

6. Disqualification would take effect without further formality on the expiration of the statutory period (ie at the end of February).

7. The county council would be entitled, as from the moment the disqualification took effect, to appoint persons to act as the council under section 72(3) of the Local Government Act 1933.

8. An appointed substitute council would probably have a better chance of carrying on day-to-day council activities if the controversial aspects of housing were taken out of their hands. Conversely a housing commissioner's task would probably be easier with a substitute council rather than the existing one. But the appointment of a housing commissioner would be represented as a notable victory for the Clay Cross councillors.

9. A substitute council would operate until the date on which Clay Cross was declared to be a "successor parish" under the Local Government Act 1972 (assuming, as is likely, that it will be so designated.) It would be possible to defer the designation until March 1974 so as to postpone any sterile round of abortive elections while Clay Cross remains a housing authority.

CONCLUSION

10. Until we know whether the surcharged councillors will appeal no firm decisions can be taken. I will keep my colleagues informed of developments.

G R

Department of the Environment

20 February 1973

The number of... in the early... of the...
... of the... and... to the...
... of the... and... to the...
... of the... and... to the...

IN THE CITY OF...

The... of the... and... to the...
... of the... and... to the...

The... of the... and... to the...
... of the... and... to the...

The... of the... and... to the...
... of the... and... to the...
... of the... and... to the...
... of the... and... to the...

The... of the... and... to the...
... of the... and... to the...
... of the... and... to the...
... of the... and... to the...

CONCLUSION

The... of the... and... to the...
... of the... and... to the...
... of the... and... to the...

20