



# Birmingham Audit

*Adding Value to your Service*

## ***Final Audit Report***

**18<sup>th</sup> July 2012**

**Children, Young People and Families**

**Grouse Cottage, Moseley School – Alleged  
expenditure irregularities**

**Report Number: CY20001244**

**Risk rating for City Council**

**Low - Green**

**Risk rating for Service Area**

**Medium  
Amber**

**Information is gathered on a confidential basis and should not be released in response to an FOI request without prior consultation with Birmingham Audit.**

## 1. *Executive Summary*

- 1.1 A number of concerns were raised about building works undertaken at Grouse Cottage, a property in Wales held in trust for the use of pupils of Moseley School. Several of the concerns relate to the actions of [REDACTED] of Moseley School. These were that expenditure has been incurred on the cottage without obtaining appropriate approval, procurement procedures were breached and planning permission was not obtained before the work was undertaken.
- 1.2 Our investigation has identified the following:
- £206,243 was spent on the cottage, but the Governors only gave approval to incur £75,000. Therefore [REDACTED] allowed a further £131,000 of expenditure to be incurred without obtaining the necessary approval.
  - The firm commissioned to undertake the work is owned by [REDACTED] a member of the Interim Executive Board (IEB). [REDACTED] commissioned the work and breached financial procedures by failing to obtain quotes from other suppliers before the work started.
  - Planning permission was not obtained before the work started. Planning Enforcement at Brecon Beacons National Park are now involved due to the extent of changes made to the cottage. Further expenditure is likely to be incurred on remedial work necessary to receive retrospective planning permission.
- 1.3 [REDACTED] has stated that he should not have taken on the project without a functioning Governing Body and that he did not have the time and capacity to undertake the job effectively due to other important issues at the school but that he had put his passion into the project for the children.
- 1.4 There is no suggestion or indication that anything fraudulent has occurred and it is accepted that [REDACTED] was dealing with other important issues at Moseley School at the time. Nevertheless it is our opinion that by his failure to obtain approval for further expenditure and his failure to obtain quotes and planning permission before the work started, his actions have fallen below the high standards expected of [REDACTED] and has left the school facing significant additional cost.
- 1.5 It is also not entirely clear whether Moseley School or the trustees are ultimately responsible for the cottage and this could be an issue in terms of future liability and benefits
- 1.6 If [REDACTED] had still been acting as [REDACTED] at Moseley School we would have recommended the Directorate consider if any action should be taken against [REDACTED], however [REDACTED] such a recommendation would be inappropriate. We have also

recommended the current Head Teacher should contact Legal Services to clarify ownership of the cottage and the roles and responsibilities of the trustees and Moseley School.

## 2. *Audit Observations*

### Introduction

2.1 In November 2011, a number of concerns were raised with Councillor Evans regarding building works undertaken at Grouse Cottage, a property in the Brecon Beacons National Park held in trust for the use of pupils of Moseley School. Several of the concerns raised related to the actions of [REDACTED] Moseley School. Councillor Evans referred the matter to Birmingham Audit for investigation.

2.2 There was concern that:

- [REDACTED] exceeded his authority by authorising a further £131,000 of expenditure on the cottage without obtaining appropriate approval.
- The owner of the building firm commissioned [REDACTED] to undertake the work is [REDACTED] of a member of the Interim Executive Board, (IEB) and procurement procedures were breached because quotes from other suppliers were not obtained.
- A planning application was not made prior to the work being undertaken, the work was not undertaken in accordance with the plans and as a result Planning Enforcement at Brecon Beacons National Park are involved and further expenditure is likely to be necessary in order to obtain retrospective planning permission.

2.3 The objective of our investigation was to establish the validity of the allegations and identify who was responsible.

2.4 We were informed at the start of our investigation that Moseley School has been managed by an Interim Executive Board (IEB) since 1<sup>st</sup> March 2010 due to a number of unrelated problems.

[REDACTED]

2.5 In order to investigate effectively and build up a more detailed picture of events that had taken place we have met with a number of relevant parties including David Martin (Trustee), Pat Beanland (Chair of IEB), Thelma Probert (former Chair and current IEB member), Beverley Cunningham (Dilworth Design), Richard Potter (drb Management), Craig Jansen (current Head Teacher at Moseley School), Mary Greaney, (ex Finance Officer,

Moseley School) Karen Painter (current Finance Officer at Mosley School), Inderpal Lotay (former Governor and current IEB member), Joyce Rawlinson (School Support Manager), and Tim Boyes.

## **Background**

- 2.6 We understand that Grouse Cottage was originally purchased by a teacher and given as a gift to Moseley school over 40 years ago but eventually fell into a poor state of repair. We have obtained a copy of a surveyors report from 2006 commissioned by the Moseleians Association which concluded that it would cost in excess of £30,000 to renovate the cottage.
- 2.7 [REDACTED] has stated that in [REDACTED], he visited the cottage and found that it was in a very poor state of repair with numerous hazards and health and safety issues. He stated that there had been a large amount of informal usage of the cottage on a residential basis and he was concerned that it was seen as a perk for staff and ex staff members. There was also a cost to the school and so due to these issues and the poor state of the cottage [REDACTED] stated that he stopped usage and closed the cottage.
- 2.8 Around this time, [REDACTED] stated that he had started running residential 'boot camps' for pupils to get them through the exams and this contributed to an improvement in pass rates. The residential courses were costly, around £4,500 per time and so the idea of undertaking work on the cottage so it had a classroom and could be used residentially made financial sense.
- 2.9 [REDACTED] stated that in February 2009 he consulted with the trustees and met Mary Miles, (lead trustee and ex Head Teacher) and welcomed advice on the cottage.
- 2.10 In April 2009, the Governing Body approved £75,000 of school budget to renovate the cottage, (see 2.12). [REDACTED] has stated that in Autumn 2009 he took a group, including members of staff and [REDACTED], to the cottage on a Saturday at his own cost to explore the possibilities of how the cottage could be improved and the possibility of camping was discussed.
- 2.11 [REDACTED] stated that he wanted the work to be undertaken quickly and hoped that the cottage would be ready for use by Easter 2010 for residential classes but there had been a lot of bad weather during the winter and there were a lot of other issues going on at the school. Due to these factors work on the cottage did not commence until March 2010.

## Expenditure on the Cottage and its Approval

- 2.12 We have obtained evidence in Moseley School Finance Committee meeting minutes in 2009 and IEB meeting minutes in 2010 that £75,000 was approved from school budget to renovate the cottage. We were informed by Pat Beanland (Chair of IEB) that the £75,000 approved by the Governors in April 2009 was not earmarked for anything specific, but was a general amount for improvements to the cottage.
- 2.13 From an examination of invoices, other documentation and discussions with a number of different interested parties, we established that work on the cottage was eventually started in March 2010. We have obtained a copy of the contract with the contractor TBC Tuscan which has been signed by [REDACTED] and shows an agreed price of £42,350 plus a £5,000 contingency. (details of the work to be carried out with a breakdown of the cost was attached to the contract). The actual cost of the work was £46,370. A summary of expenditure incurred on the cottage is shown as Appendix A.
- 2.14 [REDACTED] stated that around April or May 2010, [REDACTED] made a site visit and the toilet block had been taken down. He stated that at the point this side building had been pulled down it became apparent that it was going to be a bigger project and that works would exceed the £75,000 budget. He also stated that it was decided by himself and the staff who visited to have a camping area as the cottage was too small to hold sufficient numbers of pupils.
- 2.15 Richard Potter (drb Management) stated that during the first stage of the work there were lots of problems identified with the spring, as it ran behind the back wall of the cottage and as a result there was a lot of unavoidable further work once they had started. From an examination of invoices we have established that this further work undertaken by TBC Tuscan totalled an additional £47,241 and the additional works schedule was authorised by [REDACTED] on 10<sup>th</sup> June 2010. This was also confirmed by Richard Potter.
- 2.16 We understand that once this further work was completed someone in the local community had contacted Monmouthshire Council and raised issues about the building work undertaken. Part of this further work included turning the dormitories into learning areas, and so there was no longer sufficient sleeping accommodation in the cottage and it was decided to have a camping area. We were informed by Richard Potter that the combined cost of the additional work to comply with Building Regulations and the camping area would be a further £63,940.
- 2.17 Landscaping works were then undertaken which included fencing, floodlighting and CCTV. We have identified an additional works schedule for £18,380 signed by [REDACTED] on 8<sup>th</sup> September 2010.

- 2.18 We were informed by Richard Potter that further landscaping, fencing and slabbing work was still necessary. The cottage summary of expenses statement produced by Richard Potter records that this additional grounds work was undertaken in November 2010 at a cost of £9,985.
- 2.19 We have established that no approval was obtained from the IEB for any of the further expenditure incurred. A total of £206,243 was spent on the cottage, but approval was only given for £75,000, resulting in an unapproved overspend from school budget of £131,243.
- 2.20 We asked [REDACTED] why he thought project costs had escalated. He replied that there were a number of reasons. These were that [REDACTED] TBC Tuscan had got carried away with their enthusiasm, the costs of meeting Monmouthshire Council building regulations and Brecon Beacons National Park planning regulations, the unexpected further costs due to discovery of extensive damp, other unforeseen costs and the expansion of the project to include things such as landscaping for a camping area.
- 2.21 [REDACTED] stated that above all the total cost of the works was underestimated along with the scale of works necessary and the expansion of the grounds to use for camping. He stated that money had to be spent to bring the cottage up to a basic standard and whatever was spent on the cottage could be recouped as it had increased the value of the property.
- 2.22 We asked [REDACTED] why approval to incur additional expenditure was not obtained from the IEB. He replied that approval for the additional expenditure should have been obtained but the IEB was only created in March 2010, it was in its infancy and had huge wider issues to deal with so the cottage was not a high priority and by the time a better committee type structure had evolved, the decisions had already been made.
- 2.23 Thelma Probert (former Chair and current IEB member) has stated that [REDACTED] should have made the IEB aware before the additional expenditure was incurred but that there were serious and ongoing unrelated issues/problems around the spring and summer of 2010 which the IEB were dealing with. She stated that [REDACTED] was having a hard time of it and although this was not an excuse for not obtaining approval, it may have been a factor and the IEB should have been more vigilant.

## Procurement Issues

- 2.24 We asked [REDACTED] how he went about procuring the works to the cottage. He replied that as well as being [REDACTED] had a background in the building trade and so he asked him if he could help manage some of the works to the cottage. He stated that he was keen that [REDACTED] used a number of different contractors to undertake the work and added that [REDACTED] had an understanding of this sort of work and had knowledge of working on listed buildings in conservation areas.
- 2.25 We established that TBC Tuscan were the contractor used to undertake the work to the cottage. TBC Tuscan is owned by [REDACTED] [REDACTED]. We identified that [REDACTED] [REDACTED] [REDACTED].
- 2.26 We asked [REDACTED] whose decision it was to use [REDACTED] TBC Tuscan, to undertake the work, why they were chosen and why quotes were not obtained in line with financial procedures. He replied that it was his decision to use TBC Tuscan to undertake the work. He stated that when they were working with the £75,000 approved by the Governing Body, he had asked [REDACTED] to break this down into individual jobs which would not need quotes.
- 2.27 [REDACTED] stated that at the time of his site visit in April or May 2010, it was clear that further work would be necessary and it was also apparent that there was now a need for tendering. He stated that he was concerned about the escalation of the project and asked Richard Potter to sort it out in terms of having a proper paper trail and complying with procurement regulations.
- 2.28 We asked Richard Potter about the procurement process. He stated that he was informed by [REDACTED] in March 2010 that work had started on the cottage and that TBC Tuscan were being used because they would get the work done and provide value for money partly because they were ex-pupils of the school.
- 2.29 Richard Potter understood that the original cost of the work at £42,350 was above the amount where 3 quotes are needed. He advised [REDACTED] that he, Richard, would have to go to the next Governors Finance meeting and explain that TBC Tuscan had been commissioned to undertake the work without getting other quotes and to therefore get an exemption from the Governors. However on-going events with the Governing Body meant that they were not meeting around this time so an exemption from the need to get other quotes was not obtained.

- 2.30 Richard Potter stated that if he had been asked to be involved from the start then the project would have been managed differently and other quotes for the work would have been obtained, although some of the issues found once the work had been started may still not have been foreseen.
- 2.31 From our examination of relevant documents we had identified retrospective quotes for the first two stages of the work that had already been completed along with the proposed further work costing £63,940. We asked Richard Potter to explain. He stated that he was concerned that two lots of work had already been undertaken (i.e. for £46,370 and £47,241) and so to try and demonstrate some semblance of value for money and to comply with financial procedures he asked for retrospective quotes from TBC Tuscan and two other contractors for the first two stages of work already completed and the third stage of work (i.e. the further work costing £63,940) which hadn't yet started.
- 2.32 Richard Potter stated that as the project was being managed by TBC Tuscan they organised the quoting process and delivered the quotes to him in sealed envelopes. TBC Tuscan's quote seemed reasonable so they were also used for the third stage of work costing £63,940.
- 2.33 We asked Richard Potter about the procurement process for the final two stages of further work, totalling £18,380 and £9,985 respectively. Richard Potter replied that the process was organised through TBC Tuscan, with the quotes sent directly to Moseley School. He stated that three quotes were obtained for the work totalling £18,380 and two quotes were obtained for the work totalling £9,985 and in both cases TBC Tuscan were the lowest so they undertook the work.
- 2.34 Richard Potter stated that he did not think that anything fraudulent had taken place or that Tuscan had made any financial gain from the project, but that it was evident that the whole project had been poorly planned and executed.

### **Planning and Building Regulations Issues**

- 2.35 We asked [REDACTED] to explain why professional advice on the design and planning requirements was not sought until after the work had started. He replied that this was because they were trying to work to budget but it later transpired that the original Moseleians Association survey was flawed and totally inadequate for the scale of works.
- 2.36 [REDACTED] stated that when the work was in progress he spoke to [REDACTED] about contacting Monmouthshire Council as there was still uncertainty about access to a part of the cottage land. He stated that he spoke to and held a site meeting with an officer at Monmouthshire Council which led to a Building Regulations application being made and

Dilworth Design were then engaged to produce plans to meet the Building Regulations requirements.

- 2.37 [REDACTED] stated there was scope for confusion and politics between Monmouthshire Council and Brecon Beacons National Park. He added that Monmouthshire Council stated the plans were appropriate although at this stage they did not include items such as fencing and the project became more expensive to comply with Brecon Beacon National Park requirements.
- 2.38 We met with Beverley Cunnington of Dilworth Design and asked for her recollection of events. She stated that Dilworth Design was approached in June 2010 by [REDACTED] TBC Tuscan. She stated that building work was already well underway at the cottage when Dilworth Design was first contacted, that it seemed there had been a complaint about the work undertaken at the cottage and Monmouthshire Council had asked TBC Tuscan to submit a Building Regulations application.
- 2.39 Beverley Cunnington stated that they were sent photos by TBC Tuscan of the cottage and the work in progress and quoted them on 1<sup>st</sup> July 2010 to provide plans and to apply for Building Regulations Consent. She also stated that Dilworth Design informed TBC Tuscan on 1<sup>st</sup> July 2010 that it was highly probable there would be issues with planning and consent and advice should have been sought before the work was undertaken.
- 2.40 We asked Beverley Cunnington what advice had been provided. She replied that it had been stressed to TBC Tuscan on their first visit that there were potential planning issues with the extension due to the highly sensitive location and advised them not to do anything else other than the completion of the extension.
- 2.41 Beverley Cunnington stated that Planning Enforcement became involved in November 2010 with regard to the unapproved works which included not only the extension but landscaping for camping, construction of patios and retaining walls, floodlighting, canopy porch, CCTV, alarm box and fencing. She added that all of this work had been undertaken without the knowledge of Dilworth Design.
- 2.42 We asked [REDACTED] why additional work was undertaken if the advice from Dilworth Design was not to do anything else other than complete the extension. [REDACTED] replied that Dilworth Design were involved in the Building Regulations and not involved in planning issues at the time. He was surprised that Dilworth Design should be claiming they had given advice about planning as they simply confirmed to him that they thought Tuscan had added some unhelpful external finishes.

- 2.43 [REDACTED] was asked who he thought was responsible for ensuring no breaches of planning occurred. He replied that he was ultimately responsible and understood at that time that he did not need planning permission but that he was dependent on expertise from [REDACTED], Richard Potter and Monmouthshire Council officials.
- 2.44 [REDACTED] [REDACTED] has stated that he thought it would be a refurbishment of the cottage and therefore wouldn't need planning permission but in hindsight he realised there was more to it. He stated that [REDACTED] assumed the cottage was already used on a commercial basis and therefore planning permission would not be needed. He also stated that the original Mosleians report should have been scrutinised and substantiated but assumptions were made that it was comprehensive and it didn't mention planning permission.

### Other related Comments

- 2.45 We asked [REDACTED] what mistakes did he think had been made and what he thought could and should have been done at the time that could have prevented the current situation. He stated that he held difficult meetings about cost with [REDACTED] and Richard Potter but that it was all about educational outcome and all this was going on at a time when the whole future of the school was being challenged. He also stated that he had been naive with regard to the cottage but in the context of what was going on at Moseley School at the time it was not a high priority and the idea behind the cottage was to improve morale and results
- 2.46 [REDACTED] stated that problems were caused in part due to the element of goodwill and enthusiasm shown by [REDACTED] and himself. He added that he should not have taken on the project without a Governing Body as he did not have the time and capacity to undertake the job properly but he had brought some of his passion into the project for the benefit of the children.
- 2.47 Thelma Probert has stated that [REDACTED] did not have the same back up and experienced professionals around him at Moseley School as he did at his previous school, such as Finance and HR and the Deputy's were new and inexperienced, the Assistant Head had retired and there were lots of new faces.
- 2.48 She stated that there was no Finance Committee in place when all this happened because of the Local Authority's decision that the IEB should be small in number and not be constrained by a committee structure. She added that this was a result of poor practice by all concerned rather than any intention to commit fraud.

### **Ownership of the Cottage**

- 2.49 Our understanding is that Grouse Cottage is held in trust for the use of pupils of Moseley School. However, from an examination of documentation relating to the cottage it is not completely clear whether Moseley School or the trustees would be liable for any costs or who would benefit from any proceeds of sale.
- 2.50 [REDACTED] has stated the cottage is owned by the trustees whose duty is to protect the school's interest so that the cottage cannot be lost to Moseley School. He stated that they cannot benefit personally from its sale and any sale proceeds would go to Moseley School as both the liability and benefit are with Moseley School.
- 2.51 Pat Beanland and Craig Jansen (current Head Teacher, Moseley School) have both stated that they are unsure if it is Moseley School or the Trustees who actually own the cottage and David Martin has expressed concern about who may be held legally responsible and the extent of any potential liability that the trustees could face.

### **Current Situation**

- 2.52 We were informed by Craig Jansen, that in addition to the £206,463 expenditure already incurred, a further £4,874 has been spent on architects fees between November 2011 and March 2012 and it is expected that another amount of approximately £4,000 will be incurred in fees. Craig Jansen was not sure what future additional work will be necessary to gain planning approval as the situation is still ongoing, but he thinks it is likely to cost £15,000 to £30,000 or even more.

## **3. Conclusions**

- 3.1 There is no suggestion or indication that anything fraudulent has occurred with regard to the work undertaken at Grouse Cottage, indeed it would appear that all concerned were acting with the best of intentions.
- 3.2 However, poor planning, poor decision making, failure to seek and take appropriate advice, failure to follow financial procedures, failure to effectively consider the costs and benefits of the project, as well as a lack of scrutiny by the IEB has resulted in a large unapproved overspend with the likelihood of further expenditure being incurred to obtain planning permission.
- 3.3 It is accepted that at the time the building work was undertaken there were urgent and ongoing issues and problems at Moseley School, the Governing Body was not functioning effectively, the IEB was newly formed and both it

and [REDACTED] faced other important priorities. These factors undoubtedly contributed to the mistakes that were made.

3.4 Nevertheless it is our opinion that [REDACTED] actions with regard to the cottage, in particular his failure to obtain approval to incur additional expenditure, to obtain quotes in line with financial procedures and to obtain appropriate planning approval have fallen below the high standards expected of [REDACTED] and has left the school facing significant additional cost.

## **4. Recommendations**

4.1 Recommendations are contained in the attached Action Plan.

### **Key Operational Information**

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Directorate Contacts	<b>Sally Taylor</b>	<b>Service Director</b>	<b>675 8995</b>

## Recommended Actions

**Red** High Risk

No.	RECOMMENDED ACTION	R A G	CLIENT COMMENT
	No high risks recommendations identified		

**Amber** Medium Risk

No.	RECOMMENDED ACTION	R A G	CLIENT COMMENT
1	If [REDACTED] was still employed at Moseley School we would be recommending that the school consider whether to take some form of disciplinary action. However [REDACTED], this recommendation is no longer appropriate.		<b>Officer Responsible:</b> Sally Taylor, Service Director (Education & Commissioning)
2	Legal Services should be contacted and asked to clarify ownership of the cottage and the roles and responsibilities of the trustees and Moseley School;		<b>Officer Responsible:</b> Craig Jansen, Head Teacher, Moseley School  <b>Agreed implementation date:</b> Work on this has already started and is being undertaken by Ian Burgess, Senior Solicitor, Legal Services

## Restricted

No.	RECOMMENDED ACTION	R A G	CLIENT COMMENT
3	The Directorate should raise awareness with schools by requesting that they review the status of any properties that they may own to ensure ownership and responsibility is clearly established and defined.		<p><b>Officer Responsible:</b> Emma Leaman, Head of Education and Skills Strategy</p> <p><b>Agreed implementation date:</b> During Autumn School Term 2012</p>

**Green**

Low Risk

No.	RECOMMENDED ACTION	R A G	CLIENT COMMENT
	<b>No low risks recommendations identified</b>		

APPENDIX A

COTTAGE SUMMARY OF EXPENSES

		QUOTE	COST
	<b>BUILDING WORKS</b>		
1	TUSCAN – MARCH 2010	£42,350	£46,370
2	TUSCAN – JULY 2010		£47,241
			<b>£93,611</b>
	QUOTES REQUESTED FOR 1-3		
	EDWARDS BRISTOW & ASSOC.	£159,465	
	TP&G SPECIALISTS	£151,870	
	TUSCAN	£153,531	
3	TUSCAN – AUGUST 2010		£63,940
			<b>£157,551</b>
	<b>LANDSCAPING WORKS</b>		
	EDWARDS BRISTOW & ASSOC	£29,235	
	TP&G SPECIALISTS	£24,395	
4	TUSCAN - NOVEMBER 2010	£18,380	£18,380
	<b>ADDITIONAL GROUND WORKS</b>		
	FUTURE INTERIOR CONTRACTS	£16,543	
5	TUSCAN - NOVEMBER 2010	£9,985	£9,985
			<b>£185,916</b>
	<b>MISC COSTS</b>		
	SKIPS/PLANT HIRE/ADD EXP		£14,977
	BUILDING CONTROL INSP FEE		£385
	BUILDING REGS		£2,625
	CERTIFICATE OF LAWFULNESS		£2,560
	<b>TOTAL COST</b>		<b>£206,463</b>