

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Special Meeting of the

SCRUTINY PROGRAMME COMMITTEE


At: Committee Room 1 - Civic Centre

On: Tuesday, 27 May 2014

Time: 4.00 pm

AGENDA

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4 Minutes: To approve and sign as a correct record the Minutes of the Special Scrutiny Programme Committee held on:	3 - 15
<ul style="list-style-type: none">• 3 April, 2014 and• 23 April, 2014.	
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Patrick Arran
Head of Legal, Democratic Services & Procurement
Tuesday, 20 May 2014

Contact: Democratic Services - Tel: (01792) 637292

SCRUTINY PROGRAMME COMMITTEE (16)

Labour Councillors: 11

A M Cook	J E C Harris
D W Cole	T J Hennegan
J P Curtice	A J Jones
N J Davies	R V Smith (Vice Chair)
V M Evans	M Thomas
P Downing	

Liberal Democrat Councillors: 3

A M Day (Chair)	P M Meara
J W Jones	

Independent Councillor: 1

E W Fitzgerald	
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Conservative Councillor: 1

A C S Colburn	
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Co-opted Members:

David Anderson-Thomas	Vacancy
Sarah Joiner	Vacancy

Officers:

Dean Taylor	Director of Corporate Services
Lee Wenham	Head of Marketing, Communications & Scrutiny
Dave Mckenna	Overview & Scrutiny Manager
Brij Madahar	Overview & Scrutiny Coordinator
Democratic Services	
Nigel Havard	Legal
Archives	

Email:

Executive Board	
Cabinet Members	
Leaders of Opposition Groups	
Carl Billingsley	

Total Copies: 30

Agenda Item 2

Disclosures of Interest

To receive Disclosures of Interest from Councillors and Officers

Councillors

Councillors Interests are made in accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea. You must disclose orally to the meeting the existence and nature of that interest.

NOTE: You are requested to identify the Agenda Item / Minute No. / Planning Application No. and Subject Matter to which that interest relates and to enter all declared interests on the sheet provided for that purpose at the meeting.

1. If you have a **Personal Interest** as set out in **Paragraph 10** of the Code, you **MAY STAY, SPEAK AND VOTE** unless it is also a Prejudicial Interest.
2. If you have a Personal Interest which is also a **Prejudicial Interest** as set out in **Paragraph 12** of the Code, then subject to point 3 below, you **MUST WITHDRAW** from the meeting (unless you have obtained a dispensation from the Authority's Standards Committee)
3. Where you have a Prejudicial Interest you may attend the meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, **provided** that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. In such a case, you **must withdraw from the meeting immediately after the period for making representations, answering questions, or giving evidence relating to the business has ended**, and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration (**Paragraph 14** of the Code).
4. Where you have agreement from the Monitoring Officer that the information relating to your Personal Interest is **sensitive information**, as set out in **Paragraph 16** of the Code of Conduct, your obligation to disclose such information is replaced with an obligation to disclose the existence of a personal interest and to confirm that the Monitoring Officer has agreed that the nature of such personal interest is sensitive information.
5. If you are relying on a **grant of a dispensation** by the Standards Committee, you must, before the matter is under consideration:
 - i) Disclose orally both the interest concerned and the existence of the dispensation; and
 - ii) Before or immediately after the close of the meeting give written notification to the Authority containing:

- a) Details of the prejudicial interest;
- b) Details of the business to which the prejudicial interest relates;
- c) Details of, and the date on which, the dispensation was granted; and
- d) Your signature

Officers

Financial Interests

1. If an Officer has a financial interest in any matter which arises for decision at any meeting to which the Officer is reporting or at which the Officer is in attendance involving any member of the Council and /or any third party the Officer shall declare an interest in that matter and take no part in the consideration or determination of the matter and shall withdraw from the meeting while that matter is considered. Any such declaration made in a meeting of a constitutional body shall be recorded in the minutes of that meeting. No Officer shall make a report to a meeting for a decision to be made on any matter in which s/he has a financial interest.
2. A "financial interest" is defined as any interest affecting the financial position of the Officer, either to his/her benefit or to his/her detriment. It also includes an interest on the same basis for any member of the Officers family or a close friend and any company firm or business from which an Officer or a member of his/her family receives any remuneration. There is no financial interest for an Officer where a decision on a report affects all of the Officers of the Council or all of the officers in a Department or Service.

CITY AND COUNTY OF SWANSEA

MINUTES OF THE SPECIAL SCRUTINY PROGRAMME COMMITTEE

HELD AT COMMITTEE ROOM 1, CIVIC CENTRE, SWANSEA ON
THURSDAY, 3 APRIL 2014 AT 4.00 PM

PRESENT: Councillor A M Day (Chair) Presided for minute no. 118 only.

Councillor(s)	Councillor(s)	Councillor(s)
A C S Colburn	N J Davies	A J Jones
D W Cole	P Downing	P M Meara
A M Cook	E W Fitzgerald	R V Smith
J P Curtice	J E C Harris	

Also Present:

R Owen	-	Corporate Director (Environment)
P Arran	-	Head of Legal, Democratic Services & Procurement

Officers:

D Smith	-	Directorate Lawyer
B Madahar	-	Scrutiny Co-ordinator
S Woon	-	Democratic Services Officer

118 **ELECTION OF VICE CHAIR.**

Councillor A M Day, Chair, sought nominations for the election of the Vice Chair of the Scrutiny Programme Committee for the 2013 – 2014 Municipal Year.

RESOLVED that Councillor R V Smith be elected as Vice-Chair for the 2013 – 2014 Municipal Year.

COUNCILLOR R V SMITH (VICE CHAIR) PRESIDED.

119 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors J W Jones, M Thomas and Mrs S Joiner.

In response to a question the Scrutiny Co-ordinator confirmed that apologies were recorded on the basis that all committee members were entitled to attend for the election of vice-chair.

120 **DISCLOSURES OF PERSONAL & PREJUDICIAL INTEREST.**

Councillors:

Councillor D W Cole - personal - Minute Nos. 123 and 124 - Ward Member from Penyrheol which abuts two of the five previously nominated sites.

Councillor A M Cook - personal - Minute Nos. 123 and 124 - Ward Member from Cockett - one of the wards that was shortlisted.

Councillor J P Curtice - personal - Minute Nos. 123 and 124 - Ward Member from Penyrheol which abuts two of the five previously nominated sites.

Officers:

R Owen - personal - Minute Nos. 123 and 124 - stepson lives in Llansamlet in a position overlooking one of the shortlisted sites.

121 **MINUTES:**

RESOLVED that the minutes of the Special Scrutiny Programme Committee held on 20 February, 2014 be accepted as a correct record.

RESOLVED that the minutes of the Special Scrutiny Programme Committee held on 6 March, 2014, be accepted as a correct record subject to the following amendments:

Minute No. 113 – Apologies for Absence

Councillor D W Cole explained that he and other Members' were prevented from attending the meeting due to conflicting diary appointments.

Minute No. 115 – Gypsy & Traveller Site Search – Criteria for Site Selection/Explanation of Site Sieve Process

Additional text to be included following the resolutions in a paragraph entitled [Note]:

“Councillor P M Meara explained that in view of the short notice and lack of briefing for this role, he was not prepared to consider the issue of co-option or to allow questions from the public at this meeting. He was also unwilling to take any organisational decisions which would tie the hand of the future Chair”.

122 **MATTERS ARISING.**

A debate ensued regarding co-option of others on to the committee for this work.

RESOLVED that the issue of co-option be placed on the agenda for decision at the next meeting of the Special Scrutiny Programme Committee.

123 **EVIDENCE SESSION: GYPSY & TRAVELLER SITE SEARCH - CONSULTATION PROCESS AND OUTCOMES.**

The Vice Chair reiterated the terms of reference of the scrutiny investigation in relation to the robustness of the process to identify a Gypsy & Traveller Site.

The Corporate Director (Environment) referred to both the consultation process and the outcomes report to Council and Cabinet. She advised that there had been extensive consultation which had been the largest consultation exercise the Council had been engaged with. The consultation process spanned three months and was available electronically via the website and in paper copy format. Councillors were afforded the opportunity to examine the report and information on the Authority's internet pages.

Over 3000 responses, including petitions had been received and answered. Officers were available to talk Members through the information.

Committee members were offered the opportunity to view the notes of the consultations held with the Gypsy & Traveller Families.

All the responses received were summarised into section 6 of the report to Council. The 18 views of Gypsy Traveller families were repeated in Appendix 1 of the Council report.

The conclusions of a Senior Officer Panel was detailed in section 27 of the Council report.

The Executive Board considered the report and provided recommendations for consideration by Council. The council report took into account other relevant factors in addition to the consultation responses, including housing needs assessments, site titles and restrictive covenants, and asset values.

124 **OUTSTANDING QUESTIONS ARISING FROM OFFICER EVIDENCE.**

A question was asked in relation to a press release issued in August 2009 which detailed the mixed business and residential use proposed for the greyhound track (in the UDP) which would be carried forward to the LDP.

The Corporate Director (Environment) advised that she did not recall the press release. She detailed the purpose and lifecycle of the UDP and its link to the LDP which would supersede the UDP. From a planning policy perspective the Committee were told that the reference for the second site search (which started in 2010) was the UDP in terms of looking at land for housing, and the site in question was identified as being positioned within the urban area (white land) in the UDP, and therefore could be looked at within the site search. The criteria that had been agreed by Cabinet was for housing land allocated in the UDP. She highlighted that whilst the status of land uses may change from one plan to another, the LDP was not expected to be in effect until 2017. The Committee was advised that any detailed

questions about the UDP/LDP process would need to be raised with relevant planning officers.

A question was posed regarding the number of sites that had been identified on Peniel Green Road.

The Corporate Director (Environment) stated that a written response would be provided to this question.

A question was asked regarding the minutes of the Special Scrutiny Committee held on 20 February, 2014, wherein it was agreed that a chronology of consultations with Gypsy Traveller families would be provided for Members.

The Corporate Director (Environment) confirmed that Members would be able to examine the notes of the meetings.

A question was asked regarding paragraph 18 of the report in relation to consultation with Gypsy Traveller families and the fact that Gypsy Traveller families had discounted some sites, however, the issue was raised as to why they were still put forward for consideration and not removed at any early stage in the process.

The Corporate Director (Environment) stated that discussions had taken place with families at the beginning of the process and it was understood that their broad preference was to stay where they were, though this was not written down. The result of this would have been the search for a site would have been restricted to one ward. Members however had requested that all Council owned land be examined and this was subsequently agreed by Cabinet. It was not possible to consult in detail with Gypsy Traveller families until the search for a site and site sieve had identified a short-list of options, however the authority remained in contact with the gypsy and traveller community throughout the process. It was therefore only at the later stages that views about specific sites were known. What bearing this information might have on the future process was an issue that needed to be considered. The Corporate Director stressed whatever guidance is followed there is still a judgement call to be made about the most suitable site which Gypsy Traveller families could utilise, and this will be based on numerous factors not simply the preference(s) of the gypsy and traveller families.

A question was also asked about whether there had been any wider consultation with the gypsy and traveller community, aside from the specific families directly affected, and whether any consultation response they had provided could be distinguished as such from responses from the general public.

A question was asked regarding the involvement of anyone not associated with local government in the process.

The Committee was informed that Geoff White had been asked to carry out an independent external professional review of the site selection process followed and, although he was linked to local government, he was not associated with the City & County of Swansea.

A further question was raised about comments he made in his report about the elimination of contaminated land.

The Corporate Director (Environment) referred to the difficulties associated with shortlisting contaminated sites in relation to no budget provision for any remedial works that may be associated with the site. The process had to be rapid given the ongoing issues with unauthorised encampments. Therefore the exclusion of sites on the basis of contamination was pragmatic to reduce time / cost in dealing with such issues and progress the site selection.

The Head of Legal, Democratic Services and Procurement referred to the various factors which formed part of site consultation process. An element of which was the views of Gypsy Traveller families. He advised that the consultation process had been undertaken properly and weighting was not a legal matter. Additionally, the issue of weighting could not be taken into account until Cabinet considered the final report and was at the point of decision. He was satisfied that the process had been robust. Of course the authority needed to take account of views as there would be no point in establishing a site which would not be used.

A question was asked regarding the role of Council in the decision making process.

The Head of Legal, Democratic Services and Procurement advised that Council were involved as a consultee not as a decision maker and it would be wrong for Cabinet to accept or disregard Council's views.

A question was asked regarding the consultation process and whether this process had generated public unrest which in turn made it difficult to gain public acceptance.

The Head of Legal, Democratic Services and Procurement stated that he did not accept that the consultation process had created public unrest and highlighted the importance of everyone having the opportunity to provide comments. He added that the high level of interest vindicated the extensive consultation exercise undertaken. He reiterated from a legal perspective the Council had followed correct process.

A question was asked regarding community cohesion and whether any work had been undertaken to promote Gypsy Traveller issues.

The Corporate Director (Environment) referred to the work undertaken by the Safer Swansea Partnership (as one of its priorities) in relation to community cohesion regarding myth busting, public relations and responding to perceptions. It was accepted that more work needed to be done as a priority to ensure community awareness and understanding to counter any discrimination

A question was asked regarding housing needs assessments and how this informed the site search.

The Corporate Director (Environment) referred to the good practice guidance and detailed the rationale for the particular size of a site that was sought (0.5 ha or above). This could site between 10-12 pitches based on current identified needs and potential for future years. Reference was also made to discussions with Gypsy

Traveller families regarding their requirements. It was clarified that although a number of the shortlisted sites were significantly larger than 0.5 ha the exact location of any proposed gypsy & traveller site would be covered in the planning application stage as well as other details about the siting.

A question was asked in relation to the overview report from Chief Executive, page 35 which detailed the court judgement and the reason for the site search. It was felt that the judgement did not refer to provision by this Authority in arriving at decision made by court. Therefore, it was contested whether the lack of site provision was the real issue.

The Head of Legal, Democratic Services and Procurement referred to the basis of the judgement which focussed around certain assurances given by the former Cabinet Member. He refuted any suggestion that there was no need to seek an alternative site. He referred to the 1980's case where the Judge had ruled that the Authority could not obtain possession unless there was a site to accommodate Gypsy Traveller families. The advice from the QC had also stated that unless there was an alternative site, the Authority would not win possession. A request was made to view Counsel's opinion on the 2009 Court Judgement.

The Head of Legal, Democratic Services and Procurement confirmed that Scrutiny Programme Committee Members would be able to view Counsel's opinion.

The Corporate Director (Environment) referred to section 1 of Council report, which detailed the families living in and around enterprise zone in the last 25 years who had moved around the area substantially. There was a statutory obligation placed on the Authority to assess the needs and identify how these needs are to be addressed.

125 **TIMETABLE OF WORK (DATE AND TIME OF FURTHER SPECIAL MEETINGS TO BE CONFIRMED).**

RESOLVED that the Scrutiny Co-ordinator liaise with Members and circulate details of the date of the next meeting, which will deal with evidence from a number of members of the public and other councillors who have submitted a request to speak to the committee.

The meeting ended at 5.15 pm

CHAIR

CITY AND COUNTY OF SWANSEA

MINUTES OF THE SPECIAL SCRUTINY PROGRAMME COMMITTEE

HELD AT COMMITTEE ROOM 2, CIVIC CENTRE, SWANSEA. ON
WEDNESDAY, 23 APRIL 2014 AT 4.00 PM

PRESENT: Councillor R V Smith (Chair) Presided

Councillor(s)	Councillor(s)	Councillor(s)
A M Cook	A C S Colburn	R V Smith
J P Curtice	E W Fitzgerald	R A Clay (minute no. 129 onwards)
N J Davies	A J Jones	T J Hennegan
P Downing	P M Meara	

Also Present:

Mr Keith Jones, Councillor Uta Clay, Councillor Penny Matthews, Mr Tony Beddow.

Officers:

D Smith	-	Directorate Lawyer
D McKenna	-	Overview & Scrutiny Manager
S Woon	-	Democratic Services Officer

126 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors D W Cole, J E C Harris and Mr D Anderson-Thomas.

127 **DISCLOSURES OF PERSONAL & PREJUDICIAL INTEREST.**

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interests was declared:

Councillor A M Cook - personal - Minute Nos. 130 & 133 - Ward Member from Cockett - one of the wards that was shortlisted.

Councillor J P Curtice - personal - Minute Nos. 130 & 133 - Ward Member from Penyrheol which abuts two of the five previously nominated sites.

Councillor R A Clay – personal & prejudicial – Minute no. 130 – Llansamlet Ward Councillor and Secretary of the former campaign in the Ward against a second site.

128 **PROHIBITION OF WHIPPED VOTES AND DECLARATION OF PARTY WHIPS.**

In accordance with the Local Government (Wales) Measure 2011, no declarations of Whipped Votes or Party Whips were declared.

129 **CO - OPTION.**

The Overview and Scrutiny Manager referred to the report which provided advice to the Committee to inform its consideration of co-option of others to its review of the gypsy and traveller site search process.

The Chair sought Members' views in relation to whether co-option was necessary and the rationale behind it; who would be the most appropriate person(s) to act as co-optee and the duration of the co-option.

RESOLVED that Councillor R A Clay be co-opted to the Special Scrutiny Committee for the duration of the review of the gypsy and traveller site search process.

The Lawyer advising the Committee requested any declarations of interest from Councillor R A Clay. (Please refer to minute no. 127).

130 **EVIDENCE SESSION: GYPSY & TRAVELLER SITE SEARCH PROCESS**

The Chair referred to the fourth evidence session which would focus on evidence from members of the public and other councillors who had contacted the Committee.

The following persons were in attendance to provide evidence:

Mr Keith Jones
Councillor Uta Clay
Councillor Penny Matthews
Mr Tony Beddow

The Chair invited Mr Keith Jones to speak.

Mr Keith Jones referred to his submission and advised that he would make copies available to Committee Members.

Mr Keith Jones read his submission to the Committee.

Clarity was sought regarding Mr Keith Jones submission in relation to the Welsh Government Guidance in respect of optimum number of pitches.

Mr Keith Jones confirmed that he believed the Welsh Government Guidance stated that 10 pitches was the optimum number.

The Chair thanked Mr Keith Jones for his submission.

The Chair invited Councillor Uta Clay to speak.

Councillor Uta Clay referred to her submission and advised that she would make copies available to Committee Members.

Councillor Uta Clay read her submission to the Committee.

The Chair asked whether Councillor Uta Clay had evidence to support her submission.

Councillor Uta Clay referred to the files of evidence and referred to each separately during her submission.

The Lawyer advising the Committee advised Councillor Uta Clay she should not refer to individual names of families affected.

A question was asked regarding Councillor Clay's reference to inaccuracies regarding the Housing Needs Assessment.

Councillor Uta Clay stated that the Housing Needs Assessment constantly changed depending on which Officer discussions were held with at any specific time. She stated that the Housing Needs Assessment was seriously flawed.

A question was asked regarding the consultation process.

Councillor Uta Clay confirmed that the consultation process was unclear.

A question was asked regarding the offer of accommodation at the Pant y Blawd Official Site to the extended family residing at the Park and Ride site.

Councillor Uta Clay stated that it was her impression that the family did not want to live on the Official Site.

The Chair thanked Councillor Uta Clay for her submission.

The Chair invited Councillor Penny Matthews to speak.

Councillor Penny Matthews stated that her evidence was based on the first task and finish group meetings. She detailed the membership of the task and finish group which comprised former Councillor J Hague (Chair), former Councillor J Evans (Vice Chair), Councillor A C S Colburn, former Councillor R Smith and herself.

She stated that the process had been explained and Officers marked maps which detailed Council owned land. Officers had stated that they were looking for 10 to 12 pitches. She stated that the process went on for weeks and former Councillor J Hague expressed concern that the process was taking too long.

A question was asked regarding the examination of Council owned land.

Councillor Penny Matthews confirmed that the inference was that only Council owned land would be examined.

Councillor Matthews stated that she asked Officers to look at sites which had been identified in the 1980's as the process would be a huge expense and looking at previously identified sites may short circuit the process.

Councillor Matthews referred to her request to offer 2 available pitches at the Official Site on Pant y Blawd Road to the families at the Park and Ride Site. She referred to her impression that Officers appeared to be reluctant to do this. However, having checked with Officers at the following meeting she was told that the families had refused the offer.

Councillor Matthews stated that the meetings were held on an ad hoc basis and were often cancelled as work required to be undertaken by Officers had not been completed on time. She stated that she had raised her concerns with the Chair, former Councillor John Hague regarding the lack of progress.

Councillor Matthews stated that the meetings were led by Officers who had sifted through the original 19 sites identified to a shortlist of 5 sites. She stated that no-one could explain the rationale at arriving at 5 sites.

A question was asked regarding the clarity of the terms of reference of the task and finish group.

Councillor Penny Matthews stated that the terms of reference were not clear.

Councillor Penny Matthews referred to land at Heol y Gors which had been used by travellers on many occasions over the years. She stated that this land had not been identified in the 19 sites and she could not understand why this was the case. She stated that the task and finish group unanimously agreed that the land at Heol y Gors should be examined as part of the forthcoming site visits. The sites at Penlan and Llansamlet had been rejected by all 5 members on the task and finish group.

Councillor Penny Matthews stated that site visits were organised and included the sites at Penlan and Llansamlet, despite members requesting that these be discounted from the shortlist. She stated that following discussion with the Chair, she engaged in a heated exchange with the Officer regarding the inclusion of the Penlan and Llansamlet sites and the exclusion of the site at Heol y Gors.

Councillor Penny Matthews stated that the site visit had been rushed and members were told that a further meeting would be organised to discuss the findings of the site visits.

Councillor Penny Matthews referred to a letter written to former Councillor John Hague from the former officer, Martin Saville.

Following consideration, the Lawyer advising the Committee agreed to allow a copy of the letter to be circulated to Committee Members.

A question was asked regarding the evidence in support of eliminating sites from the shortlist.

Councillor Penny Matthews advised that a brief summary had been provided in respect of the eliminated sites.

A question was asked regarding the accuracy of the minutes of the task and finish group held on 8 March, 2010.

Councillor Penny Matthews confirmed that the minutes of 8 March, 2010 were accurate.

A question was asked regarding members reasons for discounting the Penlan and Llansamlet sites being deemed to be 'not sound'.

Councillor Penny Matthews stated that members discounted the Penlan site as it was located to a housing complex in what was deemed to be a deprived area. In respect of Llansamlet, a site was already situated there and the land identified was unsuitable for numerous reasons. She stated that officers had no provided adequate explanations in respect of why members views were not valid.

Councillor Penny Matthews referred to the 1986 agreement and questioned why only 5 sites had been identified. She stated that Councillor Chris Holley, former Council Leader, had stated that a decision would be made by Council.

A question was asked regarding lack of officer explanations, ranking of sites and whether any alternative sites were suggested.

Councillor Penny Matthews advised that, with the exception of the site at Heol y Gors, no further sites were suggested. She confirmed that no explanation or details of ranking of sites had been provided.

A question was asked regarding task and finish group members understanding that throughout the process all discussions were confidential and the impact of the forthcoming election.

Councillor Penny Matthews confirmed that she was aware of the issue of confidentiality, which had placed her in a difficult situation in so far as she could not discuss any issues.

The Chair thanked Councillor Penny Matthews for her submission.

THE MEETING ADJOURNED AT 5.45 P.M.

THE MEETING RECONVENED AT 6.00 P.M.

The Chair invited Mr Tony Beddow to speak.

Mr Tony Beddow referred to his submission and advised that he would make copies available to Committee Members.

Mr Tony Beddow read his submission to the Committee.

A question was asked regarding the suggestion that the greatest weighting was given to the views of Gypsy Travellers.

Mr Tony Beddow advised that it was his impression that the process hinged on whether particular families would go to particular sites. He stated that any weighting should have been upfront, as opposed to being considered at the end of the consultation process as a 'late arrival'. Consideration should have been given earlier in the consultation process.

A question was asked regarding comments made by the former Corporate Director (Environment) regarding the weight being given to Gypsy Traveller views being revealed at a future meeting of Cabinet.

Mr Tony Beddow stated that if that statement had been made and based on his understanding of the 'Gunning Rules' there had been a fundamental flaw which would undermine the whole process.

A question was asked regarding the former Corporate Director (Environment)'s response in relation to reasons for selection criteria, one of which was costs.

Mr Tony Beddow stated that it was possible that the Council selected 5 or 6 criteria that would be taken into account. Whilst cost would be a consideration, identifying a location that the Gypsy Travellers and host community were content with would be more important than cost.

A question was asked regarding the type of criteria used in the consultation process.

Mr Tony Beddow confirmed that no criteria had been used to distinguish sites in the consultation process.

A question was asked regarding the significance of the views of the Gypsy Travellers.

Mr Tony Beddow stated that the views of Gypsy Travellers were a significant factor.

A question was asked about the Council's obligation to identify a site and whether this would fulfil any legal duty.

Mr Tony Beddow stated that there was a difference between identifying a site that was suitable to fulfil a legal duty as opposed to a site that all parties were content with.

The Chair thanked Mr Tony Beddow for his submission.

131 **TIMETABLE OF WORK (DATE AND TIME OF FURTHER SPECIAL MEETINGS TO BE CONFIRMED).**

The Chair referred to the future evidence gathering session. Members' discussed individuals who may be interested in attending and providing evidence.

RESOLVED that:

- a. The Overview and Scrutiny Manager circulate proposed dates of the next meeting to Committee Members;
- b. Details of individuals interests in the matter be included on the documentation prior to them providing evidence to the Committee.

132 **EXCLUSION OF THE PUBLIC.**

The Committee were requested to exclude the public from the meeting during consideration of the item of business identified in the recommendations to the report on the grounds that they involve the likely disclosure of exempt information as set out in the exclusion paragraph of 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 relevant to the items of business as set out in the report.

It was **RESOLVED** that the public be excluded for the following item on the agenda.

133 **COUNSEL'S OPINION ON COURT JUDGEMENT ISSUED MARCH 2009. (TO BE MADE AVAILABLE AT THE MEETING)**

The Lawyer advising the Committee read excerpts of Counsel's opinion to Committee members.

Members asked questions of the Officer who responded accordingly.

RESOLVED that Members' would be afforded the opportunity to view the opinion in a room in legal department if they wished.

The meeting ended at 7.03 pm

CHAIR

Agenda Item 5

Report of the Chair

Special Scrutiny Programme Committee - 27 May 2014

GYPSY & TRAVELLER SITE SEARCH PROCESS – EVIDENCE SESSION

Purpose	The fifth evidence session will focus on further evidence from members of the public and other councillors who have contacted the committee.
Content	Arrangements have been made for the following persons to give evidence to this committee meeting: <ul style="list-style-type: none">• Cllr Jennifer Raynor• Hilary & Tom Jenkins• Phillip Robins• Lawrence Bailey
Councillors are being asked to	Consider the information presented as part of the committee's review of the process, and ask questions.
Lead Councillor(s)	Councillor Robert Smith, Vice-Chair of Scrutiny Programme Committee.
Lead Officer & Report Author	Brij Madahar, Scrutiny Coordinator Tel: 01792 637257 E-mail: brij.madahar@swansea.gov.uk

1. Introduction

- 1.1 A series of special meetings of the Scrutiny Programme Committee are taking place to review the process adopted to date in the search for a second gypsy and traveller site so that the committee can consider whether the process, leading up to the report to Council on 21 October 2013, was robust. The committee is looking at the quality of that process, and may identify any learning points about the process, and recommend any changes for the future as appropriate.
- 1.2 The committee is gathering evidence for this work. Initial meetings have enabled the committee to hear from officers involved in the process who have provided an overview of the process and legal framework and information on the criteria and method of site selection, the consultation process / outcomes, and the role of officers.
- 1.3 The committee was also keen to ensure that members of the public and other councillors not involved in the committee were provided with opportunity to engage with this work.

2. Call for Evidence

- 2.1 The committee issued correspondence that would enable interested persons to:
- suggest questions about the process that was followed to help the committee ask the right questions at its meetings
 - submit information / views in writing about the process that was followed that they wish to bring to the committee's attention
 - if preferred, appear before the committee to give oral evidence about the process.
- 2.2 The committee raised awareness of this invitation through specific correspondence sent to all councillors, a press release which appeared on the council's website and local newspaper, and correspondence sent to members of the local gypsy and traveller community.
- 2.3 Those wishing to respond to this invitation were directed to contact the scrutiny team at the Civic Centre by email or print.

3. Response

- 3.1 The following persons requested to appear before the committee to their evidence / views about the process:
- Tony Beddow
 - Keith Jones
 - Hilary and Tom Jenkins
 - Phillip Robins
 - Lawrence Bailey
 - Councillor Uta Clay
 - Councillor Jennifer Raynor
 - Councillor Penny Matthews
- 3.2 At the last meeting on 23 April evidence was received from:
- Tony Beddow
 - Keith Jones
 - Councillor Uta Clay
 - Councillor Penny Matthews
- 3.3 This meeting will enable the committee to hear from the remaining members of the public and other councillors who have contacted the committee:

a. Cllr Jennifer Raynor

Cllr Raynor was formerly vice-chair of the second Member Task & Finish Group for a short period. She intends to give views on the process and outline concerns about the role of the Group.

b. Hilary & Tom Jenkins

c. Phillip Robins

Mr. Robins is a resident of Fforestfach, living in the vicinity of the site of the former Greyhound Stadium - one of the 5 shortlisted sites. He was involved in the campaign against this site, and intends to share observations about the site selection process.

d. Lawrence Bailey

Mr. Bailey represented Llansamlet ward as a councillor during the period 1983-2007. He has first-hand knowledge of the area along with planning policies that impact upon the locality and relevant governance procedures in respect of the determination of land use. He owns a public affairs consultancy, Whiterock Consulting, which specialises in community engagement. He has seven years experience in this field. He works in association with planning consultancies, development companies, urban regeneration practices and property management groups. His firm has been involved in various support capacities with controversial projects and planning applications throughout the UK.

Mr. Bailey has forwarded his original response to the Council consultation (**Appendix 1**). Although the submission is site specific he intends to address matters of process and inconsistency in use of selection criteria, and clarify any points that the committee may wish to raise regarding the contents.

- 3.4 The purpose of the session is for the committee to listen to the evidence that is presented and ask questions in order to clarify anything that is said. It may also guide the future work of the committee. The committee will have the opportunity to reflect on all evidence gathered in due course in order to draw conclusions.

Date: 19 May 2014

Legal Officer: Nigel Havard / Debbie Smith
Finance Officer: Carl Billingsley

Background Papers: None

Swansea Gypsy and Traveller Site Consultation

Response

January 2013

Swansea Gypsy and Traveller Sites Consultation

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Swansea Gypsy and Traveller Sites Consultation

1.0 Response

1.1 Personal Details

My name is Lawrence Bailey.

I am a former elected member of the City and County of Swansea 1996-2007 and of the City of Swansea 1983-1996. I have held the positions of Housing Committee Chairman (1989-1995), Deputy Leader of Council (1996-2001), Business Manager (1998-2001) and Leader of Council (2001-2004). I was Lord Mayor of the City and County of Swansea (2003-4).

I have served on several local government associations in a representative capacity and also held office with a number of national and international bodies.

I represented Llansamlet ward as a councillor during the period 1983-2007. I have first-hand knowledge of the area along with planning policies that impact upon the locality and relevant governance procedures in respect of the determination of land use.

I own a public affairs consultancy, Whiterock Consulting, which specialises in community engagement. I have six years experience in this field. I work in association with planning consultancies, development companies, urban regeneration practices and property management groups. My firm has been involved in various support capacities with controversial projects and planning applications throughout the UK.

1.2 Background

I understand the obligations of the City and County of Swansea, as set out in the report to Cabinet 11th March 2010. It is regrettable that circumstances were allowed to transpire which eventually led to an unsustainable position on site provision. I appreciate however that it is necessary for the local authority to seek a practical resolution.

I also recognise that the new political administration has inherited this unsatisfactory situation on taking up office whilst continuity of process has been maintained by Officers.

1.3 Consultation

The local authority is to be commended for its openness of approach and being prepared to undertake extensive consultation in this matter. I am sure that Members and Officers will wish to ensure a meaningful form of engagement that enables effective dialogue. This is obviously essential if there is to be both an understanding within affected communities of the underlying factors and an informed appreciation of public feedback on the part of the local authority.

1.4 Scope of this response

My response is primarily in relation to the proposed location designated **Site 17 Swansea Vale (Llansamlet)** although I also wish to make a number of observations with regard to the overall selection process and associated governance issues.

2.0 Site Suitability

2.1 Assumptions

The recommendation that accompanies the Stage 3 assessment for the Llansamlet site report states: *“part of the site suitable to be considered further and possibly assessed via planning”*. It would appear however that it is actually the overall site which is to be considered for the purposes of this consultation.

Based therefore on my knowledge of the location with respect to planning designations plus constraints such as access, changes in level and the position of overhead power cables, I have assumed that the settlement location is to be as shown in Attachment 1.

This is depicted by use of a superimposed, same-scale representation of the existing gypsy traveller site at Pant-y-Blawdd Road. This is an arbitrary positioning and intended for illustration purposes only. The boundaries of the consultation site, the designation of residential land and power lines are indicated accordingly.

2.2 Site Issues

2.2.1 Size & Location

Situated at junction 44 of the M4 motorway, Site 17 covers 4.6 hectares (11.4 acres) or 46,000 square metres. It is bounded to the west by a railway line cutting. An arterial road connecting the M4 to Swansea Vale and Tregof Village forms the north-east boundary. A row of residential properties at Peniel Green Road are to the south.

It is a prominent sloping site which is visible from the motorway and established nearby communities. It is repeatedly described in the Council’s marketing literature to investors as a ‘gateway’ location serving Swansea Vale and a valuable strategic development site.

2.2.2 Planning Constraints

In terms of the relevant Unitary Development Plan (UDP) designations, the site is largely bounded by EV24 Greenspace protection zones. The western section contains an area indicated as HC1(11) Housing. A section at the north-eastern boundary is marked EV41 – Hazardous Installation Consultation Zone which refers to a gas pipeline and pressure control station. Policies EV21 Rural Development and EV22 Countryside General Policy also apply. Key designations are as indicated in Attachment 2.

The area is listed within the draft Local Development Plan as a candidate development site – **LS0004 (1.41 hectares) – Land at Peniel Green Road (2), Llansamlet.**

This designation encompasses the entire site which is described as ‘undeveloped land’ with a proposed residential use. There are four registered objections/comments relating to the proposal.

The site also lies within the Swansea Vale development area. Supplementary Planning Guidance exists to support Part 2 of the Unitary Development Plan (Developing the Economy) which lists the stated aim to “develop SA1 and Swansea Vale as high quality mixed use strategic development locations.”

The council has recently completed consultation on the **Swansea Vale Development Strategy**. The proposed site, described again as ‘a gateway location’ is included within the proposed Peniel Green Development Strategy area. (See Attachment 3).

The document contains the following development aims:

PG.1 Safeguard the provision of a Safe Route to Work strategic footpath and cycle route through PG1 to connect Tregof Village to Llansamlet Railway Station.

PG.2 Capitalise on accessibility to the M4 in the design, layout and orientation of commercial development, whilst also reflecting the need to deliver access by sustainable modes.

PG.3 Ensure that residential development is designed to meet a minimum of Code for Sustainable Homes Level 3 and integrates low and zero carbon technologies as appropriate.

PG.4 Design proposals should ensure seamless integration of development with the established community of Peniel Green, delivering a complementary mix of uses and avoiding the introduction of competition.

2.2.3 Strategic Importance

The strategic nature of the area and its unsuitability as a Gypsy Traveller site is very adequately described in the comments provided by the Council’s own Economic Development (Economic Regeneration Planning) as detailed in the Stage 3 assessment report for Site 17, which reads:

This is a prominent site at the Eastern gateway to Swansea Vale off Junction 44. Though unallocated in the UDP it does feature in the existing and draft Swansea Vale Strategy (named as PG3).

The site is allocated for business/commercial use and is closely related to site PG2 allocated for mixed uses. The site slopes steeply to the North, is highly visible to main entrance to Swansea Vale, is dissected by high voltage cables and has no service connections.

Its development for high quality permanent commercial land use is part of an ongoing comprehensive strategy for the future regeneration of the SV area. Its use for a permanent Travellers site should be resisted.

It is also worth noting that these comments resemble those made by the same department in respect of the other six prospective Llansamlet sites within Swansea Vale. In these instances, the economic development issues were cited among reasons later quoted for rejection. I will return to this particular point.

2.2.4 Terrain

Although described in the Stage 3 assessment report as ‘generally flat’, a visit to the site will confirm that it slopes significantly across its total area. A desktop assessment indicates a 12 metre change in level from southern to northern boundaries. This includes an 8 metre change in level over what is considered to a marginally useable section. There is also an estimated drop of 7-8 metres between eastern and western boundaries. Details can be seen in Attachment 4. The photograph below shows the sloping nature of the site, as viewed from the eastbound lane of the M4 motorway.



2.2.5 Proximity

I estimate that a maximum buffer area of probably less than 10 metres would be available from the site boundary to the rear gardens of properties at Peniel Green Road. This would have an obvious deleterious impact upon amenity affecting both the Traveller community and existing residents.

In light of these spatial restrictions, it is difficult to see how the limited amount of useable land could usefully accommodate a compact settlement let alone one capable of future expansion.

2.2.6 Access

The site is bounded to the east by a railway cutting. To the northeast is a three lane arterial road connecting the M4 to Swansea Vale and Tregof Village. Peniel Green Road (A48 trunk road) is to the south comprising of a near continuous row of residential properties. A small section of Gwernllwynchwyth runs across the north-western boundary.

Access is considerably limited due to existing highways constraints. I am puzzled as to how the assessment process could therefore consider site access as ‘practical, available and suitable’. (Stage 2 assessment criteria)

A conditional comment from Highways in the Stage 3 Assessment observes: *There would be a need to avoid direct access onto the estate road and this will result in a secondary access having to be constructed. The site may be suitable subject to detailed layout being satisfactory.*

Clarification is needed as to whether the reference to “estate road” is in relation to the road connecting the M4 to Swansea Vale.

WAG Circular 30/2007 – Planning for Gypsy Caravan Sites – states: *Sites, whether public or private, should be identified having regard to highways considerations. In setting their policies, local planning authorities should have regard to the potential for noise and other disturbance from the movement of vehicles to and from the site, the stationing of vehicles on the site, and on-site business activities. However, projected vehicle movements for Gypsy and Traveller sites should be assessed on an individual basis for each site. Proposals should not be rejected if they would give rise to only modest additional daily vehicle movements and/or the impact on minor roads would not be significant.*

In this respect, neither the A48 Peniel Green Road nor the access road to Swansea Vale can reasonably be described as ‘minor roads’.

There are five available access points. These are marked on Attachment 6. Each represents a challenging and costly prospect.

Access	Comments
1	<ul style="list-style-type: none"> a. Located between Nos 249 and 253 Peniel Green Road is 2.6 metres wide lane which would need to be enlarged significantly to enable even single lane access plus visibility splay. b. Access would require encroachment onto land designated as EV24 Greenspace protection zone within the UDP. c. The access point is located alongside an existing main route bus-stop. d. The undesirability of traffic movement involving articulated vehicles in close proximity to a controlled junction is a material factor.

- 2 a. This access point located between Nos 279 and 283 is subject to much the same constraints as described above. It is 2.2 metres in width.
-
- 3 a. This is a dedicated access for a gas transfer/pressure control station.
b. Located within 3 metres of the M4 motorway junction. Eastward traffic joining at this point from the A48 is split into two lanes. Oncoming vehicles from the west would either have to traverse two oncoming lanes or find a suitable turning spot. This is clearly unacceptable.
-
- 4 a. A possible access can be constructed off the mini-roundabout to the north-west of the site. This would require construction of a new access road approx 230 metres in length to the settlement.
b. Careful consideration will need to be given as to how the road can traverse the gas pipeline without subsequent damage/earth disturbance.
c. There is a probability that the new roadway would become an unsightly 'overspill' parking area. It may be anticipated that on-going issues of enforcement will also arise. (Attachment 8 - point 10)
-
- 5 a. This location offers limited access. However, as mentioned, the lower end of the site slopes steeply at this point. Vehicles towing caravans would find it difficult to traverse.
b. There are no pavements along the length of Gwernllwynchwyth Road.
-

2.2.7 Services

The point regarding a lack of available services for the site is made in the comments from Economic Development in the Stage 3 assessment report.

I further note that the minutes of the Gypsy Traveller Site Task & Finish Group held 27th September 2012 contains a reference which states that *"sites are yet to be considered by the utility companies given the confidential nature of the work. This could be done either informally prior to the consultation exercise or will automatically be undertaken as part of the planning application stage."*

No further information is available as to what work has been undertaken in this respect but I should advise that there is no mains sewerage provision for properties in Gwernllwynchwyth Road which bounds the site. Easement to provide an uphill pumping system into the main sewer running along Peniel Green Road would be required. There is also no gas-main provision for Gwernllwynchwyth Road or the proposed site

2.2.8 Land Condition

My recollection is that previous soil condition testing on the site, conducted by potential developers, exhibited a [fragile] clay content combined with pockets of spoil/debris attributed to excavation of the adjacent railway cutting.

There is reportedly extensive surface water run-off from the site onto Gwernllwynchwyth Road and thereby onto the Swansea Vale access road following rainfall.

Large-scale development/excavation required to create roadways and hard standings will most likely necessitate stabilisation works required to ensure that Gwernllwynchwyth Road and nearby properties do not become liable to surface water and possible flooding.

3.0 Assessment and Selection Process

3.1 Methodology

My reading of the minutes of the Gypsy Traveller Site Task & Finish Group, held 27th September 2012, is that a three stage process has been deployed to identify suitable sites for permanent/transit camps. This has been conducted through what is described on the Council's consultation website as an 'evolved' set of criteria. See Attachment 6.

Stage 1 employed an initial sieve of possible locations to identify sites that complied with Appropriate Constraints (spatial & demographic criteria) agreed by the Task & Finish Group. The outcome of this exercise was a list of 1006 potential sites.

Stage 2 saw assessments performed for applicability to specific criteria, namely:

- Site Size
- Liability to flooding
- Contamination
- Council land ownership
- **Access (Practical, available and suitable)**
- Presence of other buildings on the land
- Third-party leasing arrangements

This 'filtering' exercise produced a long-list of 19 sites.

Stage 3, which took into account Welsh government guidance and relevant planning policies, produced a shortlist of five sites that were presented to the Task & Finish Group.

Prior to public consultation, an independent review of the assessment process has been undertaken by internal and external third-parties.

3.2 Issues Arising

I have no doubt that every effort has been made to apply all due diligence throughout the assessment process and subsequent independent reviews. I have however identified a number of anomalies which I feel need to be addressed in specific relation to Site 17.

3.2.1 Outcomes

My view is that there is cause to revisit a number of specific outcomes which do not appear to conform to the 'evolved' list of criteria. These are:

7	Reasonably flat?	<i>As previously described, the site is subject to considerable changes in level.</i>
24	Sewerage?	<i>There is no mains sewerage provision on site or for Gwernllwynchwyth Road. Easement would be required in order to provide a pumping system into the main sewer at Peniel Green Road.</i>
38	Effect on the amenity of neighbouring properties e.g. proximity, overlooking	<i>The available site places the camp less than 10 metres from the boundary of existing properties. Occupiers would therefore be overlooked. The amenity of neighbouring properties will also be affected.</i>
39	Acceptable residential amenity for the occupiers of the site e.g. any sources of nearby noise/pollution, proximity, overlooking?	<i>The site is located alongside a railway line. Note: this disadvantage is cited for two adjacent sites which were rejected. It is not listed in the Site 17 assessment.</i>
41	Is the site located in acceptable surroundings away from industrial sites, motorways, rivers/canals?	<i>The proposed site is located alongside junction 44 of the M4 motorway and adjacent to a railway line.</i>

3.3 Other Inconsistencies

The selection process identified seven of the nineteen potential sites within Llansamlet Ward. I have included their respective assessments and locations as Attachments 9a and 9b. The assessment of Site 17, which appears to be considerably more detailed than is the case with the other sites, fails to make mention of two factors:

1. That the site is dissected by a line of high voltage cables.
2. That the site is bound by a road and **railway line**, therefore there would be concerns about placing noise sensitive receptors into an existing noisy environment

These factors, which are deemed to key restrictions with the regard to the other Llansamlet sites also affect the suitability of Site 17 and will inhibit future expansion.

3.4 Site Assessment Commentary

To aid reporting, I have listed the respective Pros and Cons as described in the Stage 3 assessment for Site 17 and added my comments to each point. Several comments are further elaborated upon elsewhere in this response and should be taken in conjunction.

3.5 Pros

	Assessment	Comments
3.5.1	Partly defined as Housing Allocation (HC1 11) within the UDP and is therefore available for residential use	<i>This fails to give due regard to the adverse impact upon mixed (commercial) development land designated alongside. (ED comment)</i>
3.5.2	Highway infrastructure acceptable for proposed use (subject to access modifications)	<i>No evidence to support this view. The Highways statement advises a need “to avoid direct access onto the estate road and this will result in a secondary access having to be constructed. The site may be suitable subject to detailed layout being satisfactory.”</i>
3.5.3	In accordance with the legislative framework the site is positioned within an existing settlement.	<i>The legislative framework also states that site allocation must include a social, environmental and economic impact assessment in accordance with the requirements of a sustainability appraisal. Inconclusive evidence that work has been undertaken/planned.</i>
3.5.4	The site is reasonably well located to sufficient services and facilities	<i>Access to facilities by pedestrians is considerably restricted. This will add to any anticipated traffic movements.</i>
3.5.5	Within close proximity of the M4 motorway and has potential scope as a permanent or transit site	<i>Proximity to the motorway is not listed among the criteria approved by the Task & Finish Group. Note: A stated constraint is that sites should be ‘away from industrial sites, motorways, rivers/canals’.</i>
3.5.6	The site area provides sufficient scope for expansion	<i>The scope for expansion is significantly limited by a combination of changing site levels, restricted access and a hazardous consultation zone (overhead power cable and gas pipeline transfer station).</i>

3.6 Cons

	Assessment	Comments
3.6.1	Partly defined as an area of Open Countryside (EV22) within the Unitary Development Plan	<i>Policy EV21 Rural Development also applies.</i>
3.6.2	Partly defined as an area of Greenspace System (EV24) within the Unitary Development Plan	<i>The overall site is actually bounded on three sides by this designation.</i>
3.6.3	A small proportion of the site is identified as a Consultation Zone for Hazardous Installations (EV41) within the UDP.	<i>In practical terms, the EV41 zone affects approx 25% of the overall site. This is a current constraint that will also inhibit site expansion.</i>
3.6.4	Loss of housing landbank and reduction in potential capital receipts	<i>This is estimated at approx. £650,000 subject to planning consents (based on commensurate Swansea Vale land values).</i>
3.6.5	Investment in hardstanding and boundary works would be required	<i>The site would require extensive levelling with no appreciable cost-benefit.</i>
3.6.6	The size of the site is excessive for the requirements so subdivision would be necessary	<i>The physical constraints already described render most of the site unusable.</i>
3.6.7	The site would require landscaping works	<i>The site would require <u>extensive</u> screening work. Landscaping would need to ensure that surface water run-off is not exacerbated.</i>
3.6.8	Subject to grazing license – expires 24/03/2013	<i>None</i>

3.7 Sustainability

As mentioned in 3.5.3, there is a requirement to utilise the Local Development Plan approach as outlined in **WAG Circular 30/2007 – Planning for Gypsy Caravan Sites when considering the appropriateness of Site 17 Swansea Vale (Llansamlet).**

There is no evidence that this work has been undertaken or planned. This omission raises the question as to how sustainability factors have been taken into account as part of the assessment process *prior* to the public consultation stage. See Attachment 8.

4.0 Governance Issues

4.1 Functions

My understanding is that the respective functions of Members and Officers with regard to decision-making are listed within the Scheme of Delegation as outlined in the Council's written constitution.

Task & Finish Groups are informal advisory bodies set up to address specific issues. They are by definition, single-issue and short-term in nature. They are not committees of the Council and have no decision-making powers. They can however recommend a course of action to the appropriate Executive (Cabinet) member or Officer who can in turn report to either Cabinet or Council depending on whether there is an impact upon policy or a course of action that can be taken within an existing policy framework.

In the instance of new Gypsy Traveller site selection, the remit of the Group has been to undertake its work within the context of the existing relevant policy framework(s). The reporting method is explained in an extract taken from the minutes of the Gypsy Traveller Site Task and Finish Group 27th September 2012 which reads:

*... It was suggested that an independent Head of Service would undertake a review of the process to ensure that there is an extra level of transparency. In addition, an external auditor (potentially a planner from an adjoining authority) would be appointed to review the application of all appropriate guidance/legislation as part of the assessment. If necessary a final meeting of this Task and Finish Group could then take place to assess these findings. However, if their conclusions would confirm the assessment of the Group then the five sites would be **submitted to Cabinet and Council** [my emphasis] and be subject to a consultation exercise.*

It was AGREED that the final stages in this procedure as outlined above be accepted and agreed.

There is no indication that a subsequent meeting of the Task & Finish Group was held. The methodology described above therefore may be construed as the definitive one.

4.2 Sequence

The sequence of actions, as set out in the Task & Finish group minute, is unambiguous in that it is stated that consultation would follow on from the submission of the five selected sites to Cabinet and Council (for approval).

Statements supporting this progression can also be seen in preceding reports and on the Council's consultation website.

4.3 Cabinet

The report submitted by the Cabinet Member for Place to the Cabinet meeting of 1st November 2012 – *Approach to the Identification of Additional Gypsy Traveller Site Provision*, describes the consultation process to be undertaken in some detail.

However the report does not specify which sites are to be the subject of public consultation. The only supporting information provided is the ‘evolved’ selection criteria. There is no reference to the outcomes of Stage 2 & 3 assessments, save that they are to be submitted for independent review.

Recommendation (c) of the report of 1st November 2012 merely states that “*a public consultation exercise is commenced seeking opinions on the outcomes of the exercise so far.*”

It should also be noted that relevant reports and minutes of the Gypsy Traveller Site Task & Finish Group had not yet been placed in the public domain at that time.

The absence of a shortlist of identified sites in the report to Cabinet indicates that most members were unaware of the identity of the five locations and were not in a position to examine the basis of the recommendations. I would submit that it does not represent the normal practice of informed decision-making at executive level.

If matters of detail were deemed unduly sensitive then I am sure suitable arrangements could have been approved by the responsible officer for key relevant information to have been provided under separate cover.

4.4 Decision-Making

Paragraph 3.6 of the Cabinet report states: *Following the public consultation exercise, a full report on all these matters will be made to Council prior to Council deciding which site or sites are to go forward for Planning Permission.*

Council is clearly not the decision-making body in this instance. Nor can Council operate in an advisory capacity that imposes political direction and which would be regarded as fettering of executive discretion. In my experience, it is unusual for a Cabinet report to contain this kind of material inaccuracy.

It is not for me to comment on the lawfulness of the decision-making process undertaken to date or suggested as future arrangements but there are patently several governance anomalies which the local authority should address if it is to avoid subsequent third-party challenge.

It will also be necessary for the local authority to similarly satisfy the Welsh Government and partnership agencies that all relevant and proper procedures have been complied with in arriving at an outcome.

4.5 Shortlisted Sites

A further source of confusion arises from the minutes of the meeting of the Gypsy Traveller Site Task & Finish Group held 8th March 2012. These appear to indicate that **three** sites were selected - with a further two considered by members to be inappropriate due to a possible loss of housing land bank. There is no evidence that this stated and considered view was amended following the subsequent site visits of 10th April 2012.

The minutes of both meetings were adopted as correct records by the reconstituted Task & Finish Group at its inaugural meeting on 19th July 2012.

The proposed reduction in the number of sites, which I understand specified the deletion of Site 17 Swansea Vale (Llansamlet) from the shortlist, receives no further mention in follow up reports. This situation requires explanation.

4.6 Substance of Consultation

When considering the anomalies listed in this section, it is reasonable to conclude that there is some confusion, both within and outside the local authority, as to what are the substantive issues upon which consultation is being carried out. While this should in no way adversely reflect upon the willingness of the Council to engage communities in dialogue, it is nonetheless an important underlying matter in need of resolution.

5.0 Other Matters

5.1 Planning

My reading of reports and recommendations associated with the assessment process is that considerable emphasis has been placed upon the action of seeking planning consent as a means of determining the final suitability of shortlisted sites.

This is a marked departure from accepted practice in that the LA would first commission feasibility reports and obtain rigorously tested data regarding demonstrated need, social impact and costs if the project in hand were, say, a school or community facility.

The use of the planning process as a 'catch-all' facility not only has the potential to diminish the role of the Development Control function but fails to recognise the potentially abortive expense associated with assembling a very significant amount of supporting information which will need to be made available in advance. Such information would include a traffic impact assessment, environmental impact assessment (subject to scoping outcomes) plus design and access statements.

I note that a report to the New Gypsy & Traveller Site Task & Finish Group on 10th April 2012 contained a list of similar necessary safeguards. This contrasts greatly with advice to the successor T&F Group which implied that it would be sufficient to have something in place that 'resembles' the Local Development Plan process.

It is reasonable to assume, notwithstanding the provisions of relevant Welsh Government circulars and Planning Policy Wales, that an application for a Gypsy Traveller site would need to be advertised as a departure from the Unitary Development Plan.

My view is that substantial pre-application work will be needed in relation to a scheme likely to have significant impact upon a prominent site of stated strategic importance.

This opinion is based upon professional experience gained in working with the local authority in the formulation of two separate Development Frameworks deemed necessary to inform the scope of planning requirements for private-sector projects.

5.2 Cost

I recognise that a proportion of the cost for a new site will fall to the Welsh government (less non-reimbursable costs). That said, I am sure the local authority will share the view that there is an inherent obligation for public bodies to seek value for money in all circumstances. A report to the Gypsy & Traveller Site Task & Finish Group 10th April 2012 advised along similar lines:

... The likely economic viability of delivering the sites by taking into account cost factors (site preparation, infrastructure costs, etc) and whether the value of potential alternative uses of the site makes its delivery unlikely will need to be considered further. Costs could include – on particular sites without any drainage provision the Authority will have to fund a bio bubble/other on site waste treatment facility (See Appendix 3 as a practical example from an English authority).

The example given is for a site of 4 pitches at a cost of £334,000. As such, I think it is quite reasonable to adopt cost-analysis as part of the evolving site selection process.

5.3 West Glamorgan Agreement

I have some knowledge of what is referred to as the “West Glamorgan Agreement” and which I would describe as an accommodation reached between elected members of the former City of Swansea and West Glamorgan County Council. I was present as a Llansamlet councillor at the joint-authority meeting held in 1986 in Committee Room 1 at County Hall in Oystermouth Road.

The provision of Gypsy Traveller sites at the time was a responsibility of West Glamorgan County Council. The granting of [deemed] planning consent was likewise a function of the County Council although the City, which was a district council, was a consultee and also the appropriate Housing Authority.

My personal recollection of events is that a mutual agreement was reached by which it was accepted that the unofficial site at Pant-y-Blawdd Road would be given formal status with the proviso that it would be the only such site in Llansamlet Ward. Any further sites (in Swansea) would be situated in other localities.

I accept that this was essentially an agreement at political level and that the official minutes can only reflect what was presented to the WGCC Policy & Resources Committee at the time. I further recognise that the City and County of Swansea feels itself to be under no legal obligation to abide by any inferred responsibility arising from these events.

5.4 Enterprise Park & Swansea Vale

Nonetheless, I would contend that a consistent policy position held thereafter by West Glamorgan County Council and its successor body, the City and County of Swansea, is that adequate site provision had been made available as a consequence.

This same policy position underpinned the future on-going actions of the successive local authorities in the protection of council-owned assets within the Enterprise Park and Swansea Vale from illegal incursions. Enforcement actions included eviction supported by exclusion orders to prevent a return to the same site or to one in close proximity.

As far as I am aware, this approach remained the position of the local authority until 2009 when it became partially unsustainable due to a legal judgement which ruled that enforcement arrangements had been compromised by an internal breach of procedures. I note however that an official statement provided by the City and County of Swansea to the local press following the unfavourable High Court judgement reads:

"... it is important to note the court did grant the council a possession order which forbids further encroachment of the whole area of the Enterprise Park in the future by these and other gypsy traveller families." (S.Wales Evening Post 1.April 2009)

This statement, taken in conjunction with the report of the Cabinet Member for Environment to Cabinet, dated 11th March 2010, indicates that the term "Enterprise Park" is one used to encompass the Enterprise Park and Swansea Vale.

Although I accept that the local authority has not been able to maintain a robust level of asset protection at the western entrance to Swansea Vale, it has nonetheless upheld this approach with regard to its remaining properties. It is reasonable to expect that a similar level of determination should apply in respect of the area's strategic eastern gateway.

5.5 Llansamlet Ward

I think it is reasonable to say that there is an evident bias towards Llansamlet Ward as an outcome of the site selection process. The resultant pattern is especially remarkable when one considers the diverse range of spatial, demographic and environmental factors reported to have been employed during the objective assessment process.

The incidence of seven out of nineteen potential sites being clustered within a few square kilometres from an initial tranche of 1006 locations across the 36 wards that make up the City and County of Swansea would, in any other field of work, be considered statistically significant, i.e. unlikely to have occurred through chance. (Attachment 9b)

All affected communities and Llansamlet in particular will need to be assured that the assessment outcome has not been skewed or otherwise weighted to accommodate factors other than those agreed as applicable by the Task & Finish Group (Attachment 6).

It is important that the local authority provides this assurance accompanied by detailed evidence in order to avoid considerable future difficulties likely to impact upon subsequent project formulation and delivery.

It would be similarly helpful for the local authority to seek validation of the findings of the two independent reviews and to establish if the abnormal incidence of Llansamlet Ward sites within the final assessment stages was commented upon.

5.6 Gypsy Traveller Community Input

I note that the minutes of the Gypsy Traveller Site Task & Finish Group of 27th September 2012 make reference to a statement that: *“the Chair and Officers had met representatives of the Gypsy and Traveller Community in order to inform them of the assessment process currently ongoing and to discuss their potential site requirements. The feedback received from this meeting would be incorporated into this exercise.*

There is no indication as to whether these discussions were site specific or if any particular preferences were expressed by the Gypsy Traveller community representatives. This is unfortunate as it would have greatly informed the consultation process.

6.0 Conclusion & Summary

6.1 Overall

As previously stated, it is to the credit of the City and County of Swansea that an extensive consultation exercise of this nature has been undertaken. The openness and transparency employed by the local authority since May 2012 in respect of this previously hidden process augurs well for the future.

My expectation is that meaningful consultation will allow this response to be reported to Cabinet in appropriate detail along with comments from Officers to the respective points.

6.2 Summary

Site Suitability

- 6.2.1 The Swansea Vale (Llansamlet) site is unsuitable for use either as a permanent or transit location by virtue of poor access and unmanageable terrain. It clearly fails the Stage 2 test of access being 'practical, available and suitable'.
- 6.2.2 The description in the assessment summary of the site as 'generally flat' is inaccurate. The restricted amount of usable area is subject to a change of level of up to 8 metres (26 ft) and 12 metres overall.
- 6.2.3 The resultant constrained nature of the site would mean siting pitches in close proximity to existing properties with a consequent adverse effect on amenity.
- 6.2.4 The presence of an adjacent railway line and power cables which rule out other nearby prospective sites should also make Site 17 unsuitable. The presence of a gas pipeline & transfer station is a further matter of concern.
- 6.2.5 Both the proposed site and adjoining street are un-serviced in respect of gas and mains sewerage. Easement onto the site will be necessary.

Assessment methodology

- 6.2.6 There is a measure of doubt as to whether the assessment process which has resulted in the inclusion of Site 17 in the shortlist has given appropriate regard to criteria agreed by the Task and Finish Group. There are also issues of inconsistency in application (Section 3.2).
- 6.2.7 Undue reliance is given to the seeking of planning consent as a 'catch-all' means of assessing site suitability. A considerable amount of supporting information is required which will have significant resource implications. It is doubtful that the local authority would apply the same unfocussed approach when determining the feasibility of other community-based facilities.

- 6.2.8 Close proximity to the motorway is described as a 'pro' in the Stage 3 assessment report for Site 17 – as is the case in other assessments - but it is not among the desirable criteria approved by the Task & Finish Group (Attachment 6). If anything, this factor conflicts with the requirement for sites to be “away from industrial sites, motorways, rivers/canals”.
- 6.2.9 Cost-benefit analysis and comparisons should be part of the selection process.

Process & Governance

- 6.2.10 The absence of a formally recorded decision (by Cabinet) which indentifies the shortlisted sites for consultation is a worrying omission. The local authority will need to satisfy itself, and affected third-parties, that due process has been properly observed.
- 6.2.11 The minutes of the Task & Finish Group of 10th April 2012 suggest that **three** (and not five) sites were deemed as suitable. This situation needs to be clarified along with reasons as to why the recommendation was not adopted.
- 6.2.12 The local authority will need to provide more detailed evidence as to how it has given (or intends to give) proper regard to the applicable range of sustainability issues as specified by Welsh government policy guidelines.

Strategic

- 6.2.13 The proposed use of Site 17 as a Gypsy settlement is inconsistent with existing strategic development aims for a gateway location within the current Swansea Vale Master Plan and the proposed Swansea Vale Development Strategy.
- There is clearly considerable opposition to the proposal on the part of the local authority's own Economic Development arm. I see no scope for reconciling what are mutually exclusive ambitions.
- 6.2.14 The selection of the Site 17 would be contrary to the operating principle that Gypsy and Traveller sites are incompatible with the preferred land development uses associated with the Enterprise Park and Swansea Vale.

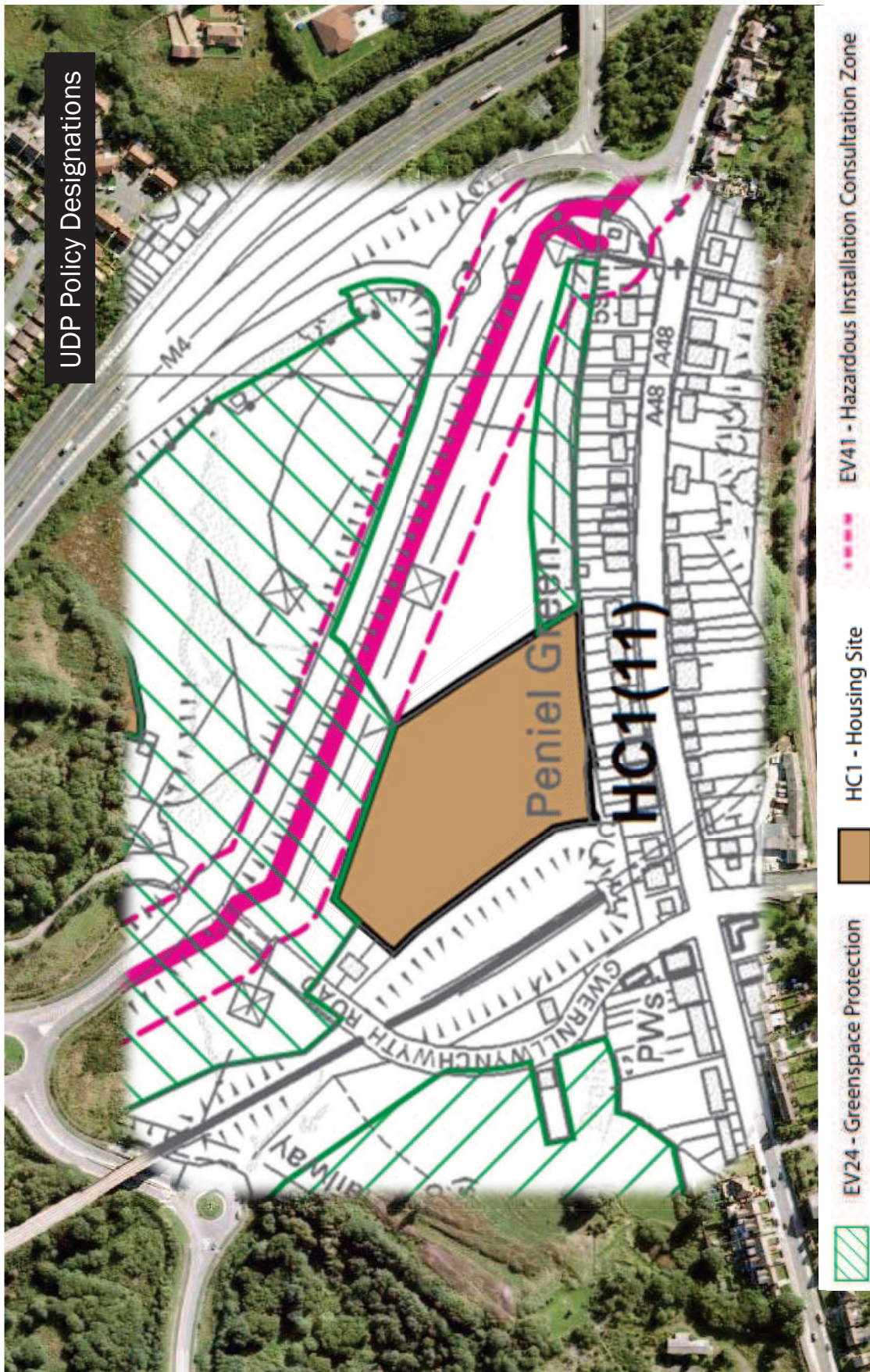
Other

- 6.2.15 The local authority should seek to confirm that its assessments have not been skewed or are in any way weighted to accommodate factors other than those declared as relevant criteria by the Task & Finish Group.

List of Attachments

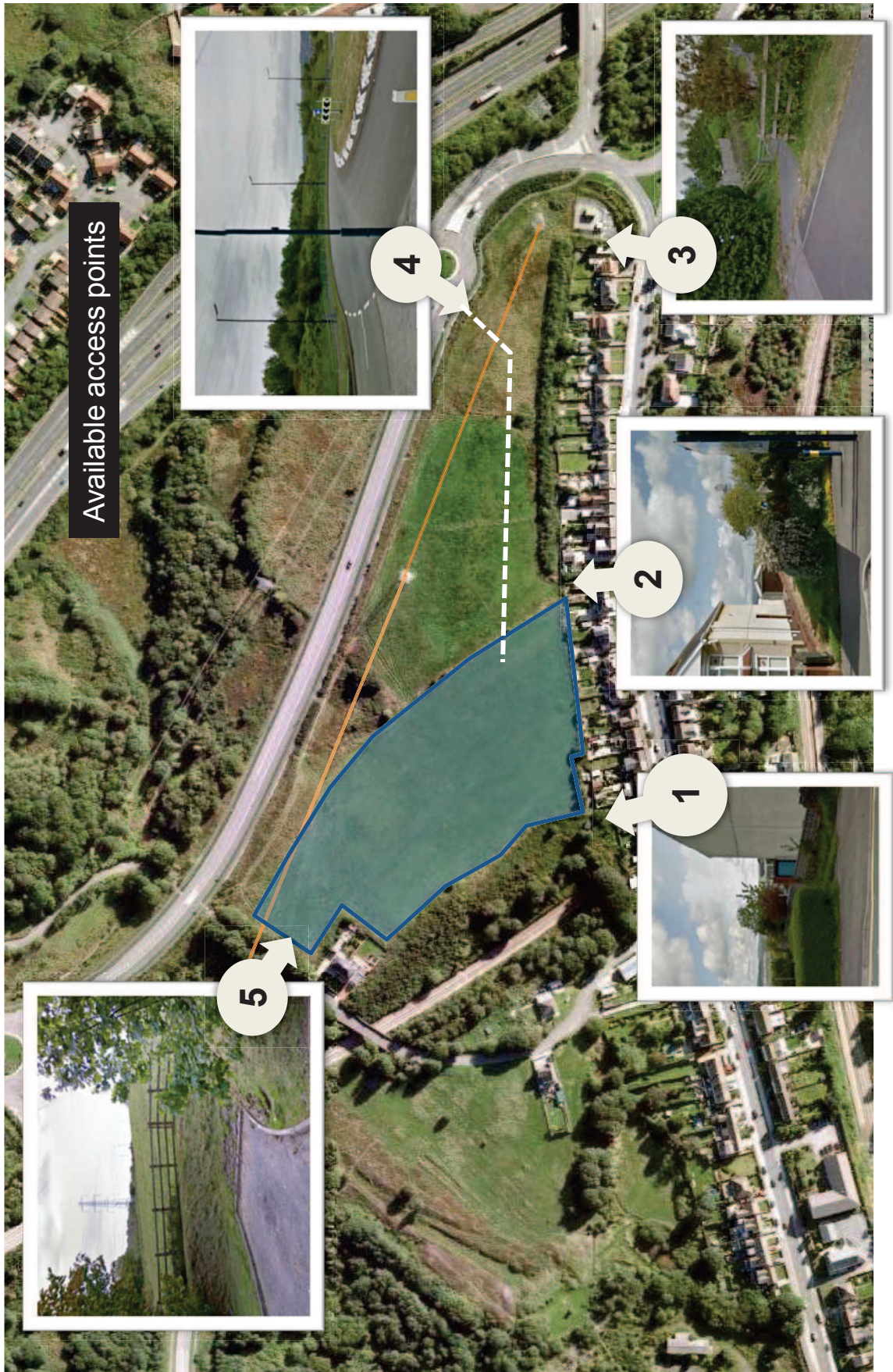
1. Site Layout inc. superimposed image of probable settlement location
2. UDP Policy Designations – Swansea Vale (Llansamlet)
3. Swansea Vale Development Strategy – Designations
4. Relative site levels – Swansea Vale (Llansamlet)
5. Site Access Points – Swansea Vale (Llansamlet)
6. 'Evolved' Site Selection Criteria
7. Appropriate Constraints (Stage 1)
8. Planning for Gypsy And Traveller Caravan Sites – WAG – December 2007
- 9a Site Assessment Comparison (Sites 12-18) Llansamlet Ward
- 9b Site locations – Llansamlet Ward











Attachment 6

'Evolved' Site Selection Criteria

Site Constraints:

1. Size of site – over 0.5 hectare?
2. Is the land in a flood risk area (TAN15)?
3. Is the land on the Contaminated Land Register?
4. UDP allocation/policies?
5. Is there adequate access?

Site Characteristics:

6. Allows capacity for growth if necessary?
7. Reasonably flat?
8. Suitable hard standing surface?
9. Readily available e.g. public ownership/willing landowner/ lack of restrictive covenants?
10. Free from potential hazards?
11. Previously developed land?
12. Adequate security arrangements e.g. ability to install a controlled entrance/exit, defined boundary?
13. Presence of former mine workings (Coal Authority)?

Highway Issues:

14. Separate site access?
15. Surrounding road network adequate?
16. Adequate space for parking, turning and servicing on site?
17. Reasonable pedestrian route to main settlement?
18. Access for emergency vehicles?
19. Nearby public transport provision?
20. Conflict with Public Rights of Way?

Infrastructure:

Access to:

21. Water?
22. Electricity?
23. Drainage?
24. Sewerage?
25. Lighting?
26. Gas?
27. Waste Disposal?

Local Services:

Access to:

- 28. Schools where capacity is available?
- 29. Primary Health Care where capacity is available?
- 30. Council owned community facilities?
- 31. Food shops?

Potential Environmental Impacts:

Any adverse significant impact on:

- 32. The Gower AONB?
- 33. Nature conservation, in particular designated areas?
- 34. Landscape (e.g. can be mitigated by screening/landscaping)?
- 35. Listed Buildings/Conservation Areas/Ancient Monuments/other cultural assets/
- 36. Green Wedge?
- 37. Registered Common Land?

Amenity Issues:

- 38. Effect on the amenity of neighbouring properties e.g. proximity, overlooking?.
- 39. Acceptable residential amenity for the occupiers of the site e.g. any sources of nearby noise/pollution, proximity, overlooking?
- 40. Would the location meet the needs of prospective occupiers?
- 41. Is the site located in acceptable surroundings away from industrial sites, motorways, rivers/canals?

Attachment 7

Appropriate Constraints (Stage 1)

Baseline

 [Council owned land \[8.9Mb\]](#)

Unitary Development Plan Constraints

 [City Centre \[34.9Mb\]](#)

 [Common land \[35.3Mb\]](#)

 [Conservation areas \[35.0Mb\]](#)

 [District shopping centres \[35.0Mb\]](#)

 [Historic parks and gardens \[39.0Mb\]](#)

 [Sites of Special Scientific Interest and National Nature Reserves \[35.6Mb\]](#)

 [Strategic Employment Sites \[6.5Mb\]](#)

 [Urban woodland \[17.9Mb\]](#)

Other Constraints

 [Flood zones \[7.0Mb\]](#)

 [Contaminated land \[5.4Mb\]](#)

Outputs

 [Council owned land with constraints excluded \[4.8Mb\]](#)

 [Council owned land not affected by contaminated land or flood zones \[14.8Mb\]](#)

Extract

WAG Circular 30/2007 - Planning for Gypsy And Traveller Caravan Sites
Welsh Assembly Government - December 2007

19. Issues of **site sustainability** are important for the health and well being of Gypsy and Travellers not only in respect of environmental issues but also for the maintenance and support of family and social networks. It should not be considered only in terms of transport mode, pedestrian access, safety and distances from services. Such consideration may include:

- opportunities for growth within family units;
- the promotion of peaceful and integrated co-existence between the site and the local community;
- the wider benefits of easier access to GP and other health services;
- access to utilities including waste recovery and disposal services;
- access for emergency vehicles;
- children attending school on a regular basis;

also other educational issues such as space e.g. for touring or static play bus, homework club, teaching base for older children and adults - (see proposed Good Practice for Local Education Authorities in Wales in meeting educational needs at Annex A);

- suitable safe play areas;
- contribute to a network of transit stops at intervals that reduce the need for long-distance travelling - see paragraph 7;
- possible environmental damage caused by unauthorised encampment;
- not locating sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans and;
- regard for areas designated as being of international or national importance for biodiversity and landscape - see paragraphs 34-35 below.

20. In deciding where to provide for Gypsy and Traveller sites, local planning authorities should first consider locations in or near existing settlements with access to local services e.g., shops, doctors, schools, employment, leisure and recreation opportunities, churches and other religious establishments. All sites considered as options for a site allocation in a LDP must have their social, environmental and economic impacts assessed in accordance with the requirements of sustainability appraisal. (Section 3 of the LDP Manual (W.A.G 2006) introduces the process; section 5 explains the process with regard to Evidence Gathering and Objectives; and section 6 explains the process in Strategic Options and Preferred Strategy). Local authorities should also be aware of site design guidance, and site management guidance, to be issued in 2007/08 by the Welsh Assembly Government.

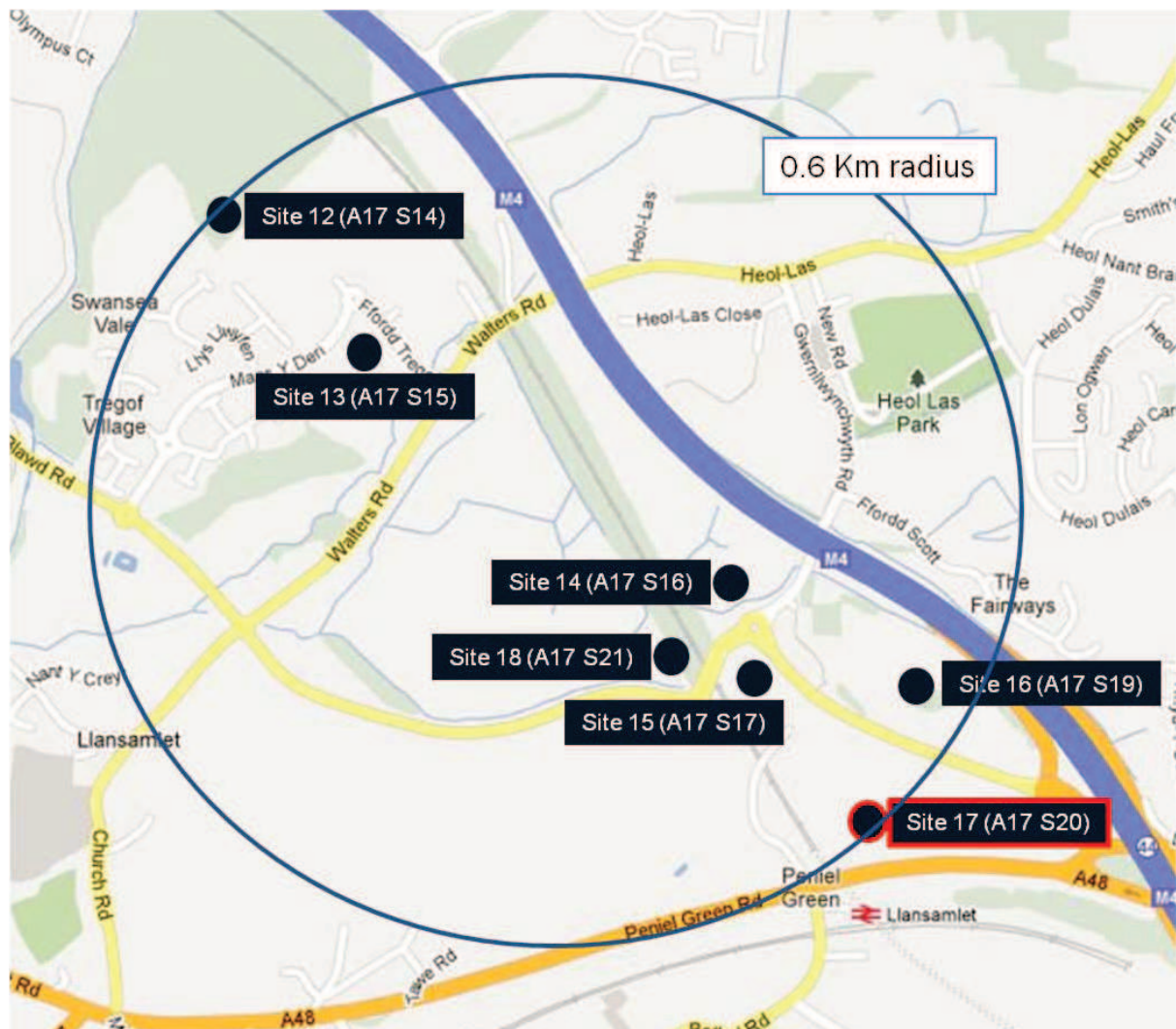
Attachment 9a – Site Assessment Comparison (Sites 12-18)

Site	Site 12 – Tregof Village	13 – Tregof Village	14 – Swansea Vale	15 – Swansea Vale
Pros	<ul style="list-style-type: none"> Mostly defined as Housing Allocation (HC1 13) within the Unitary Development Plan and is therefore available for residential use The site is reasonably well located to services and facilities The site area provides sufficient scope for expansion 	<ul style="list-style-type: none"> Partly defined as Housing Allocation (HC1 13) within the Unitary Development Plan The site is reasonably well located to services and facilities 	<ul style="list-style-type: none"> The site has a low impact on the surrounding landscape partly due to its relatively isolated position with limited views from the wider area Within close proximity to the M4 Motorway The site area provides sufficient scope for expansion 	<ul style="list-style-type: none"> Within close proximity to the M4 Motorway The site is relatively self contained with sufficient scope for expansion
Cons	<ul style="list-style-type: none"> Partly defined as an area of Open Countryside (EV22) within the Unitary Development Plan Partly defined as an area of Greenspace System (EV24) within the Unitary Development Plan Loss of housing landbank and reduction in potential capital receipts The site forms part of the Swansea Vale Joint Venture area and is subject to a legal agreement with Welsh Government The site is dissected by a line of high voltage cables Investment in hardstanding and boundary works would be required The size of the site is excessive for the requirements so subdivision would be necessary The site would require clearance works and landscaping 	<ul style="list-style-type: none"> Even though the site is partly defined as Housing Allocation (HC1 13) within the Unitary Development Plan a significant part of the land identified has been used for providing playground facilities Partly defined as an area of Open Countryside (EV22) within the Unitary Development Plan Partly defined as an area of Greenspace System (EV24) within the Unitary Development Plan Loss of some housing landbank (what remains taking into account of the new playground) and reduction in potential capital receipts The site is dissected by a line of high voltage cables Investment in hardstanding and boundary works would be required The site would require clearance works and landscaping 	<ul style="list-style-type: none"> Defined as an area of Greenspace System (EV24) within the Unitary Development Plan Highway infrastructure is unsuitable The site is bound by the M4 Motorway and railway line, therefore there would be concerns about placing noise sensitive receptors into an existing noisy environment Investment in hardstanding and boundary works would be required The size of the site is excessive for the requirements so subdivision would be necessary The site would require clearance works and landscaping 	<ul style="list-style-type: none"> Defined as an area of Greenspace System (EV24) within the Unitary Development Plan Highway infrastructure is unsuitable The site is bound by a road and railway line, therefore there would be concerns about placing noise sensitive receptors into an existing noisy environment Investment in hardstanding and boundary works would be required The site would require clearance works and landscaping
Outcome	<p>Site should not be considered further as there are other more suitable alternatives available.</p> <p>Key restriction – Site forms part of the Swansea Vale Joint Venture area and is subject to a legal agreement with Welsh Government</p>	<p>Site should not be considered further as there are other more suitable alternatives available.</p> <p>Key restriction – A significant part of the remaining Housing Allocation land available for development has now been used for providing playground facilities</p>	<p>Site should not be considered further as there are other more suitable alternatives available.</p> <p>Key restriction – Highways/Part of the Greenspace System/Noise Pollution</p>	<p>Site should not be considered further as there are other more suitable alternatives available.</p> <p>Key restriction – Highways/Noise Pollution</p>

Attachment 9a – Site Assessment Comparison (Sites 12-18)

Site	16 – Swansea Vale	17 – Swansea Vale	18 – Swansea Vale	Observations
Pros	<ul style="list-style-type: none"> • Within close proximity to the M4 Motorway • The site area provides sufficient scope for expansion 	<ul style="list-style-type: none"> • Partly defined as Housing Allocation (HC1 11) within the Unitary Development • Plan and is therefore available for residential use • Highway infrastructure acceptable for proposed use (subject to access modifications) • In accordance with the legislative framework the site is positioned within an existing settlement • The site is reasonably well located sufficient services and facilities • Within close proximity to the M4 Motorway and has potential scope as a permanent or transit site • The site area provides sufficient scope for expansion 	<ul style="list-style-type: none"> • Partly defined as Housing Allocation (HC1 15) within the Unitary Development Plan and is therefore available for residential use • Within close proximity to the M4 Motorway • The site area provides sufficient scope for expansion 	
Cons	<ul style="list-style-type: none"> • Defined as an area of Greenspace System (EV24) within the Unitary Development Plan • The site is bound by the M4 Motorway and the road servicing Swansea Vale, therefore there would be concerns about placing noise sensitive receptors into an existing noisy environment • Investment in hardstanding and boundary works would be required • The size of the site is excessive for the requirements so subdivision would be necessary • The site would require clearance works and landscaping 	<ul style="list-style-type: none"> • Partly defined as an area of Open Countryside (EV22) within the Unitary Development Plan • Partly defined as an area of Greenspace System (EV24) within the Unitary Development Plan • A small proportion of the site is identified as a Consultation Zone for Hazardous Installations (EV41) within the Unitary Development Plan • Loss of housing landbank and reduction in potential capital receipts • Investment in hardstanding and boundary works would be required • The size of the site is excessive for the requirements so subdivision would be necessary • The site would require landscaping works • Subject to grazing licence – expires 24/03/13 	<ul style="list-style-type: none"> • Partly defined as Greenspace System (EV24) within the Unitary Development Plan • Highway infrastructure is unsuitable • Loss of housing landbank and reduction in potential capital receipts • The site forms part of the Swansea Vale Joint Venture area and is subject to a legal agreement with Welsh Government • Investment in hardstanding and boundary works would be required • The size of the site is excessive for the requirements so subdivision would be necessary • The site would require clearance works and landscaping 	<p>As is the case with sites 12 & 13, Site 17 is dissected by a line of high voltage cables</p> <p>As is the case with sites 14 & 15, Site 17 is bound by a road and railway line, therefore there would be concerns about placing noise sensitive receptors into an existing noisy environment.</p> <p>It is not readily apparent why these factors fail to be considered as contributing towards key restrictions in the case of Site 17</p>
Outcome	<p>Site should not be considered further as there are other more suitable alternatives available.</p> <p>Key restriction – Highways/Noise Pollution</p>	<p>Part of the site suitable to be considered further and possibly assessed via planning application</p>	<p>Site should not be considered further as there are other more suitable alternatives available.</p> <p>Key restriction – Highways</p>	

Attachment 9b – Site Locations – Llansamlet Ward



Site	Location	Comments	Outcome	Reason
12	Tregof Village	ED – objection	Rejected	Swansea Vale JV agreement
13	Tregof Village	ED – objection	Rejected	Play area designation
14	Swansea Vale	ED – objection	Rejected	Greenspace area
15	Swansea Vale	ED – objection	Rejected	Highways noise & pollution
16	Swansea Vale	ED – objection	Rejected	Highways noise & pollution
17	Swansea Vale	ED – objection	Recommended	
18	Swansea Vale	ED – objection	Rejected	Highways concerns

Agenda Item 6

Special Meetings of Scrutiny Programme Committee

Gypsy & Traveller Site Provision – Review of Process

1. Purpose:

- To review the process adopted to date and seek assurance on quality
- To identify any learning points as appropriate and recommend any changes for the future

2. Key Question:

Was the process, leading up to the report to Council on 21 October 2013, robust?

3. Timetable of Work:

Meeting		Purpose	Attending
1.	20 Feb	<ul style="list-style-type: none"> • Overview of Gypsy Traveller Site Search - report giving chronology of process and legal framework. 	<ul style="list-style-type: none"> • Jack Straw (Chief Executive) • Reena Owen (Corporate Director) • Emyr Jones (Planning Services) • Patrick Arran (Legal Services)
2.	6 Mar	<ul style="list-style-type: none"> • Criteria for Site Selection / Explanation of Site Sieve Process 	<ul style="list-style-type: none"> • Reena Owen (Corporate Director) • Emyr Jones (Planning Services) • Dave Turner (Estates)
3.	3 Apr	<ul style="list-style-type: none"> • Consultation Process / Outcomes, Senior Officer Panel / Executive Board Reviews - copy of reports to Council / Cabinet, consultation feedback, reference to role of Senior Officer Panel and Executive Board 	<ul style="list-style-type: none"> • Reena Owen (Corporate Director) • Patrick Arran (Legal Services)
		<ul style="list-style-type: none"> • To deal with outstanding queries from officer evidence 	
4.	23 Apr	<ul style="list-style-type: none"> • Evidence from members of the public / other councillors (1) 	<ul style="list-style-type: none"> • Tony Beddow • Keith Jones • Cllr Uta Clay • Cllr Penny Matthews
5.	27 May	<ul style="list-style-type: none"> • Evidence from members of the public / other councillors (2) 	<ul style="list-style-type: none"> • Cllr Jennifer Raynor • Hilary & Tom Jenkins • Phillip Robins • Lawrence Bailey

Further meetings to be arranged. Committee to consider:

- evidence from other sources
- analysis of evidence / conclusions

Evidence to Scrutiny Committee April 23rd 2014 Travellers Sites : Author Tony Beddow

1. My background

- Executive Director of West Glamorgan Health Authority from 1982 - 1996 (including 4 years as Chief Executive) undertaking similar consultation exercises on local health matters
- Senior Fellow at Welsh Institute for Health and Social Care (University of Glamorgan) 1996-2007 with experience of advising public bodies in aspects of public consultation
- Now Visiting Prof at University of South Wales with much experience of
 - a) assisting public bodies undertake such exercises
 - b) acting as a consultant to various bodies seeking help in responding to such consultations

For the record, my evidence and my observations in respect of the consultation process is as an informed member of the public. Many of you will know that I also have been active politically in Swansea since 1997 and in that capacity I have also been aware of other relevant matters. I do not intend to draw upon that experience today. However, if you feel that this might be useful, I am happy to try to assist at a further time.

2. Interests

2.1. I make clear I have no preference for one site over another. My interest is in seeing good public administration undertaken and my first enquiries about this process were on 1st May 2012 when I sought information about it from the Chief Executive. I have four inter-related concerns about the process witnessed from March 2010 to the present.

2.2. (I mention - but do not intend to concentrate further upon - a 5th area of concern which is the image that your scrutiny process has presented to the wider public. You appear to have found it difficult effectively to scrutinise a process largely shaped by the previous administration which, as the Opposition, may now be seen as the prime custodian of Scrutiny. It may be perceived therefore that there is some motivation for not unearthing too many skeletons (should they exist). The current administration too may have questions to answer, although it has stated publicly that the work done on the process used to select sites has, on its watch, been solely by officers without any political interference or guidance. If so, questions fall to officers to address.

2.3. Given 2.2. above, you may wish to ponder on whether topics of this kind would benefit from being overseen by an external / independent resource.

2.4. I turn now to the four inter-related aspects of this process upon which I wish to concentrate.

a) First I posit that the March 2010 Cabinet paper was a major plank in this whole process. In my view that paper correctly advised that work be done to rank sites that might be suitable to house further traveller pitches. Yet by August this was changed to a less robust approach.

b) Second, I examine the resulting (and less clear) process actually employed.

c) Third, I question whether the Council was ever clear about exactly what problem it was seeking to address or consult upon. My contention is that the less than clear process employed, and the imprecise definition of the question / problem posed, both stemmed from the change of approach between March and August 2010.

d) Finally, it has been claimed that the work done has been externally assured in two ways. First it was checked by a professional from outside the Authority who pronounced it sound. Second, I'm told that Council has external legal advice that the process met Gunning principles. I merely observe that given misgivings about the robustness of the process that emerged when the officer recommendations came to Council and Cabinet - and the rejection of the officers report - you may wish to probe further, the robustness of the assurances thus given.

3. Issues raised

3.1. March 2010 and August 2010 Cabinet papers

3.1.1. The Cabinets in March and August 2010 addressed the process whereby it would be decided where further traveller provision would be located.

3.1.2 The paper in March was clear and specific about the terms of reference of the proposed T&F group. It would carry out a study of all Council owned land with a view to determining the best place for further pitches. (There is a separate matter about whether looking only at Council owned land was too restrictive - and you are aware of this - but not looking more widely did not seem to be fully justified in the papers). Crucially, the aim was to RANK the best site options. The term "rank" is important¹. It implies that the different features - of several as yet unknown locations - would be compared and the locations placed in order of suitability. To do this, a common methodology that allows such comparison would be needed. One such methodology was explained in the critique of the process I prepared for Councillors on 11th October 2013. There are many current examples where such approaches have been employed - e.g. the recent consultations on re-locating hospital services in both South Wales and West Wales.²

¹ Various definitions of the term "rank" can be found. They commonly refer to "defining a relative position or degree of order in a graded group"

² See *Your Health, Your Future*, Hywel Dda Health Board, 2012 (and www.hywelddahb.wales.nhs.uk/Consultation) and *Together For Health : South Wales Programme, Towards a Preferred Option*, Opinion Research Services, April 2013

3.1.3. However, by August, the terms of reference changed. Instead of ranking locations, the revised paper merely promised to produce a report on options.

I make the following points in this regard.

3.1.3.1. Had a ranking process been followed - as I believe was correctly proposed at first - it would have needed a robust methodology requiring officers and / or politicians to be explicit about the significant criteria that would distinguish between different locations. Whatever criteria were chosen (cost, speed of delivery, extent of local opposition or support, resilience to future change etc) would be listed and weighted. If this had been done, a clear position would, for example, have been taken at the start of the process as to whether acceptability of a site to travellers was seen as more, or less, important than its acceptability to its prospective host community.

3.1.3.2. Quite apart from the fact that such an approach is a recognised way of doing these exercises³, what is equally important is that the officers choice of criteria would be made clear and these, and the weights given to them, would both form part of the consultation. The public would get to see what the Council thought was important and could suggest different criteria or different weighting of that criteria. (I return to this later when considering the Gunning principles).

3.1.3.3. For every site emerging as a front runner, how well it met each criteria would then be scored. Again, when consulted, the public might offer alternative views about the scores given.

3.1.3.4. In summary, such an approach demands that clear thinking is used to consider carefully the key factors that will shape a final decision - and how different sites compared.

3.1.3.5. I struggle to understand why a recognised methodology was not used and can think of only four reasons why this might be so. These are:

3.1.3.5.1. **A better approach was used.** I would find it difficult to discern any methodology that was applied - let alone one superior to that I've outlined.

3.1.3.5.2. **The task would be too difficult to do.** I would find this explanation unconvincing as it is inevitable that some kind of both qualitative and quantitative assessment would be needed and thus the issue is whether the task is to be done well / badly and overtly or covertly.

3.1.3.5.3. **Making clear the criteria being used would have been embarrassing.** For example, if at the beginning of the process officers had proposed that the greatest weight should be given to the views of travellers (as now appears to be the reality) one might predict the response of some consultees when this decision was placed alongside policies such as those relating to offering choices of location to people awaiting housing.

³ See for <http://www.dfpni.gov.uk/eag-the-weighting-and-scoring> method. Department of Finance and Personnel Northern Ireland, Guide to Expenditure Appraisal.

3.1.3.5.4. A clear comparative approach - explained at the outset of what was likely to be a process of learning and discovery - might provide a hostage to fortune IF a desired outcome had already formed in the minds of officers (or politicians).

3.1.4. I observe that fear of embarrassment and the possibility of a pre-determined outcome seem more likely explanations.

3.1.5. I would encourage you to be satisfied that you understand to the reason why such a methodology wasn't used and request that you satisfy yourselves on three aspects:

- What changed between March and August?
- Will you call for the background papers and officers notes used drafting these papers - and recall officers - so that you might understand why the change occurred?
- Did the officers propose such a change, and why - or was it a political decision?

3.2. Methodology used to compare

3.2.1. I have already alluded to the wisdom of having some methodology by which the different location or site options might be compared. IF the outcome of the search that started in August 2010 was unknown, there was every likelihood that the sites that came forward would have very different characteristics and some such methodology would enable robust comparison.

3.2.2. Some would be costly to create, some less so. Some would have high opportunity costs, some less so. Many, perhaps all, would be strongly opposed by local people or businesses and such opposition might be easily satiated - or not. Such characteristics might be described as "political" in nature and considered not easily measured by abstract metrics. However, I would contend that all such criteria could be weighted and then the sites scored as part of an open assessment process that was being consulted upon.

3.2.3. In her evidence to you on 6th March I recall Ms Owen listing the factors that were known to be relevant. These included availability, costs, and acceptability to potential users. It is not then a question of key criteria being unknowable at the beginning of the exercise. Likewise, how well the different sites were felt to fulfil the criteria (scoring) has also been described to you.

3.2.4. What is at issue is whether the subjective and opaque application of "judgement" was better than an openly described and quantified approach, or was indeed the only approach possible.

3.3. Lack of clarity of "the issue" that public is being asked to consider

3.3.1. Throughout the process, it was never clear (at least to me) precisely what was being consulted upon and, at different stages, what the public was being consulted about appeared to change. In the main the issue was framed

in terms of "seeking a second site". But it became clear that a second site might not, in some circumstances, meet "need". So I urge you to be clear that you know what the consultation was about.

Was it to choose one further location at which a finite number of permanent pitches would be housed?

Was it to choose one further location where both additional permanent and transient pitches would be created?

Or was it to decide how best to provide a number of permanent pitches sufficient to meet "need" - which could require several additional sites to be considered if current guidance on the maximum size of such sites was to be observed?

Or was it to decide a location to house further pitches that would be seen as the Council meeting its legal duty to provide more sites?

3.3.2. A precise description of the "problem" is important because - if a robust methodology is employed - how the problem is described will determine what criteria are used to compare different options. For example, if the aim is to provide enough capacity to meet future "need" on one additional site only, then one would expect a criteria along the lines of "The site must be able to house numbers higher than those predicted" to be applied and weighted. Another issue is the mixing of permanent and transient families. One might imagine that a site for a settled community only would interact differently with its neighbours from a site housing transient users as well.

3.3.3. The final matter concerning site selection relates to the concept of "need" itself. The consultation paper accepts that the mathematical forecasting of future need is an inexact science. What also became apparent during the process is that quite apart from predicting the movement / requirements of different families, it was not clear if families who had been offered, but declined, vacant pitches were still able to be deemed to be "in need". Finally, it was not clear whether the "currency" used to measure need was pitches, people or families. I would urge you to be satisfied that you understand clearly what "need assessment" meant in the evaluation process.

3.4. Gunning test and other external oversight-legal and independent

3.4.1. It is well established that public consultation has to meet certain standards commonly referred to as the "Gunning Test" or the Sedley principles⁴.

3.4.2. The essentials are that decision makers should approach consultation with care where a subject is controversial - as is the case here. While decision

⁴ For example see <http://www.adminlaw.org.uk/docs/18%20January%202012%.20Sheldon.pdf>

makers have discretion in how they undertake consultation, that discretion is not unhindered. Four tests are applied:

- a) the proposal must be at a formative stage OR, if a preferred proposal, the decision maker must still have an open mind
- b) sufficient reasons must be put forward to allow intelligent consideration and response about the issue and specifically those consulted must be aware of the criteria that will be applied when the decision maker considers the proposals and which ones are deemed decisive or important
- c) there must be adequate time for consultees to respond
- d) the feedback from the consultation must be taken into account.

Additionally, the Court may intervene if a reasonable option - the use of land in private ownership perhaps - had not been considered.

3.4.3. In respect of the four tests I have no concerns about the time allowed for consultees. I have some concerns about the extent to which responses were taken into account - partly because of the confusion about the roles of Cabinet and Full Council in making a decision. The confused paper (Item 11a) to Council in April 2013 was unfortunate.

3.4.4. However, I do have serious concerns about the process in respect of whether the public were given clear information about both the question being posed and the criteria that the decision maker would regard as significant. I contend that, largely because no recognised methodology was used, the final consultation paper was imprecise about the problem Council was seeking to address and thus was unclear about the criteria that Cabinet / Council would employ to distinguish good solutions from less good ones.

3.4.5. With this in mind, I am surprised that the three reviews of the process - one internal, one involving a senior officer from outside the authority, and one a legal opinion, all concluded that the process used was robust.

3.4.6. You are urged to acquire and test the advice that was given by the external assessor. I also ask you to call for the legal opinion and test that it explains in detail why my concerns about failure to adhere to the Gunning principles are baseless.

4. Conclusion

I have outlined my concerns about four aspects of the process used to address the shortfall in traveller pitches. These aspects are:

- a) the change in approach between March and August 2010 which in my view then
- b) led to a less than clear definition of the problem Council was seeking to address and thus to an inadequate process for addressing it, which
- c) created an approach which in my view did not meet the legal test implied by the Gunning principles.

d) Finally what I, and apparently Council / Cabinet deemed to be a flawed process, had nevertheless been signed off by two different external quality assurers.

I have urged you to pursue five things.

1. . You may wish to ponder on whether, in future, scrutiny of topics with this mix of challenges could benefit from external / independent oversight.

2. I wish you to understand and be satisfied with the reason why a recognised methodology wasn't used as indicated in March 2010 and request that you satisfy yourselves on three matters:

- What changed between March and August 2010?
- What was in background papers and officers notes used in drafting these papers - calling officers involved so that you understand why the change occurred?
- Was the change a political or officer decision?

3. I wish you to be clear about whether the consultation was :

- to chose one new location at which a finite number of additional permanent pitches would be housed?
- to chose one new location where additional permanent and transient pitches would be created - sufficient to meet future "need"?
- about how best to provide the number of permanent pitches that the travelling community will "need" - which might require several additional sites to be provided if guidance on the maximum size of such sites is to be observed?

4. I want you to be satisfied that you understand what "need assessment" meant and how it was used in the evaluation process.

5. I ask you to obtain and test the advice that was given by the external assessor about the robustness of the process and also ask that you see the external legal opinion clearing the process that could re-assure you that my concerns about its adherence to the Gunning principles are misplaced.

Gypsy and Traveller Presentation by Mr Keith Jones

(April 2014)

THANK YOU MR CHAIRMAN COMMITTEE MEMBERS

I did send to you a presentation that I was proposing to use when speaking to you, however events changed and this presentation is an updated version of my views; I do however stand by the conclusions and recommendations that I put in my previous circular to you.

I would like to let you have copies of this presentation because I have used a number of references to reports and their appendices as well as those of other documentations and you may find it helpful in using these references when you draw your conclusions at the end of this particular part of the process.

FIRSTLY

Gypsy's and travellers are classified in the same grouping for purposes of their ethnicity, by both the WAG and local authorities.

However, due to their differing lifestyles as well as their accommodation needs, including facilities, most gypsy families would prefer to be located at separate sites to the travellers. Discussions I have had with members of two families confirm this view.

I feel that, in a future search, officers should state whether sites are to be used by a particular category rather than as a **gypsy and traveller** site. This would benefit public discussions on the matter.

NOW TO DETAIL

In the report by the Head of Housing at this authority dated 25th October 2012; in **Section 6 Key Findings**, he states in paragraph 3:

“The independent reviewing officer agreed with the recommendation made for all 19 of the shortlisted sites which included the 5 sites on the final shortlist. This was following clarification of a number of issues by the planning officer and a further check undertaken with the head of planning for Neath/Port Talbot Council”

However Mr. Geoff White, who is head of planning at Neath/Port Talbot Council with over 30 years of experience, states in his report (undated):

“The detailed sieve of the 19 eliminates some sites because they **fail** on certain criteria such as **access** or **UDP designation**.”

Whose version is the correct one and if Mr. Whites is then why were some sites put in the final 19 if they failed criteria. These authorities' officers set themselves as listed in **Appendix A** of the report to the **EGM** on **25th October 2013**.

I quote these:

Item 4; headed site constraints – UDP designation.

Item 14; headed highway issues – Access

Mr. White in his report states that “I am familiar with this type of selection process having been involved in such a selection process in Neath/Port Talbot.”

This demonstrates that the selection process for the last 19 was not done thoroughly.

“The Head of Housing states that their review of 2 years’ work was carried out in just 3 days with an admittance that they had to rely on planning advice and other assurances from officers.” (Ref Head of Housing Report 29/10/12 Sections 1.2/1.3).

They did not have time to visit any of the sites which, I would have thought, was essential in order to put the report in context with practical applications on the ground.

MY RECOMMENDATION

That any future reviews should be carried out by an outside company of **planning and development consultants** who are familiar with this type of process and that they are given the time and resources they need with access to all documentation as well as interview facilities with this involved in the process.

I do not believe that independent reviewers should be; quote “**relying on planning advice and other assurances from officers**”, whose decision making they are reviewing.

The Next Issue

In September 2012 the three main gypsy families were consulted about their preferences for site location and a chart was issued showing their preferences. All three were adamant that they would not even consider sites Gorseinon Cemetery or site 15 Penderry. When questioned by this committee, Mrs. Owen stated that despite this, these 2 sites were left in because the views of the families were only part of the process.

Had I been allowed to ask questions at the time; besides one asked by the committee which was:

“If gypsy’s won’t go to a selected site, how do you make them?”

I would like to have asked:

If 2 sites had been eliminated by March 2012, and I refer to a meeting of the Task and Finish Group on 8th of that month – agenda item 5A of which the minutes of the meeting include the following; state –

“It was emphasized that if members disagreed with the suitability of the remaining sites (the final 5) than any of the others discounted earlier could be reconsidered.

The pros and cons of the 5 sites were discussed and their suitability’s assessed. It was considered appropriate by members that 3 sites go forward as being considered suitable.

The Head of Services recommended that members visit all 5 sites for completeness before finalizing their thoughts.”

My questions would have been:

1. Why were these 2 sites not replaced by others from the list of 19 which were claimed to be potentially suitable?
2. What is the logic in pursuing a consultation process which includes 2 sites which have affectively been eliminated?

3. Why were the third gypsy families preferences not included in the 2012 Survey? Although they stated that they would not require accommodation for at least 5 years, by the time this process is over 5 years will have elapsed.

I would urge against any more gypsy family surveys, because if they keep changing their minds then the information that they give would have to be considered as unreliable.

Consultation – yes

Surveys – no

Next I feel that the process should now change to being linked to the LDP rather than the UDP as it is the LDP which will have to include provision for the gypsy and traveler sites.

The LDP update 2014 – online 6th March – notes that the Planning Policy Team has been finalizing the preferred strategy document, which will be presented to council members this spring/early summer. The final version of the preferred strategy will underpin the draft LDP which should be published in 2015.

In the report for the EGM, 21st October 2013, section 7.2 responds to the comment that (relating to site 2) **“There are future long term aspirations for the development of the area which is currently being considered as part of the LDP preparation.”**

By saying

“Until the plan is adapted in 2016, these potential proposals have no official status. Nevertheless, it does highlight the requirement to balance future aspirations against current designations/demand prior to the identification of site(s) for the planning application stage.”

The gypsy site issue needs to be considered in relation to the LDP and potential sites need to avoid being considered in strategic areas of this plan because doing so would cause severe disruption in such sensitive areas.

In the Q&A session on April 30th, Mrs. Owen stated in reply to a question from a committee member about the effect that a gypsy site might have on business in an area;

“Information from other authorities shows that things tend to settle down once a site becomes established.” Standard quote in consultation replies.

I would like to have asked the following:

1. Which authorities said this?
2. When and how was it communicated to you?
3. What were the distances between any such sites and businesses?
4. Was this confirmed by the businesses concerned?

In Swansea, some businesses are already holding back on development plans until the outcome is decided.

FOR EXAMPLE

REFERENCE CONSULTATION SUBMISSIONS APPENDX B1 – PAGE 393 ONLINE

Harris Brothers – who are owned by the Micheldever Tyre Group who are the UK’s largest independent tyre dealer with 1/6 of the total market – have had a £300,000 development put on hold – planning permission having been granted previously.

APPENDIX B1 – ONLINE PAGES 1140 – 1144

Bakeart, a leader in cake decoration manufacture who supply major supermarkets as well as small outlets, who were intending to relocate their factory from North East England to Fforestfach to be near to their Swansea HQ in the Kingsway Fforestfach; have delayed the move and have said it will not go ahead if a site is located nearby.

Appendix G gives many businesses views on their attitude to the location of a site near to them and their thoughts on the effect it would have on their business and their staff numbers.

My question would be:

“Are the council prepared to risk losing businesses and jobs in Swansea? There are plenty of towns who would welcome them if they decided to relocate.”

I now refer to the number of pitches proposed and the associated traffic movement.

In its replies to consultation comments, officers talk about the relatively small of the site. The **WAG** and **gypsy forums** recommend 10 as the optimum number.

However in her comments to the committee, Mrs. Owen recognized a number of 20 in due course.

This would equate to a approximately 200 extra traffic movements per day. This would severely impact on highway issues, especially in an area such as Fforestfach which already has severe traffic limitations.

The estimated traffic movement is taken from figures given by S. Gloucestershire Council in the case of an application for a site at Hall end, north of Bristol near Wickwar.

Such a site would dominate the nearest settled community which is against WAG and HC9 Policy.

Finally, an item which gives me great concern.

THE CONSULTATION PROCESS

Consultation – act or process of consulting

Consult – seek information or advice – take into account

Responders – over 3200

No. of website pages - 3808

Fictional Person – John Smith

You want to see the response to your concern. First go to Appendix B1-B6 – whichever appropriate – then trawl through up to 1679 pages to locate a submission with your initials.

Initials not in any obvious sequence, e.g. SL – CW.

If you find them – B16 IF – are they relating to you? Why couldn't a computer put them in alphabetical sequence?

If you have not given up and you find your comments, you will almost certainly find that you have been wasting your time because the chances are that it will have one of a number of standard responses given to it which have been used to cover a variety of comments on any given subject, e.g. Highways, security etc.

If the officers could not disagree with your comments the following would usually be a standard answer:
“Comment Noted” or “This is unlikely to succeed as a planning objection”

Not a single agreement with a comment.

e.g. “This seems a sensible point, we will consider further”

All of the references made in order to support officers replies are vague and cannot be confirmed

ODPM 2006 – Office of Deputy Prime Minister

Nner Et Al 2005 – Pat Niner

Joseph Rowntree Foundation in Scotland

The Planning Exchange – Charity in Scotland – 5 Trustees / 1 Secretary

The release of the consultation results should have taken 3 months but eventually took over 6 due to the tremendous response from both the public and businesses. This obviously upset the planned timetable which was to get the matter out of the way before the end of the year and possibly the imminent retirement of two senior officers with involvement in it.

It s worth noting that the responses to comments sometimes contradict established facts, for example:
Site 2 Site Plan Public Transport 823 meters away (just over ½ mile which exceeds WAG guidelines)

Answer to comment:

“It is considered there is reasonable transport provision within the vicinity of the site, Gypsy and Traveller families more often than not have private means of transport”.

The only conclusion that can be drawn is that the council have failed to find a suitable location for a gypsy or traveller site which could be considered suitable for the families or acceptable to residents or businesses.

The comments in my written report stand that consultation responses should be dealt with by outside experts rather than by officers, who are defending their own work and who so not have open mind on the subject, still stands.

EVIDENCE FROM COUNCILLOR UTA CLAY TO CITY AND COUNTY OF SWANSEA SPECIAL SCRUTINY PROGRAMME COMMITTEE ENQUIRY: GYPSY TRAVELLER SITE EVALUATION PROCESS

First, preparing for this session has been seriously undermined by the failure of the Council's IT over the long Easter weekend.

XXXXXXXXXX

In my view your terms of reference are seriously restrictive and I have spent some time reflecting on the extent to which I can offer information and perspective about these matters whilst remaining within your terms of reference.

Part of my problem is that I have come to have a view which I share with a number of others, which effectively argues that this process was deeply and, may be, hopelessly flawed from the start. It is possible to have a robust process that was nevertheless deeply flawed. The overwhelming view amongst all those in the Llansamlet ward who have taken a close interest in these matters, is that the fundamental flaw in the process was that it gives the appearance that **it was designed to come to one conclusion which was that there should be a further legal Traveller site in Llansamlet.**

This does NOT imply a highly organised and secret conspiracy, but it is the result of historical embarrassments, questionable legal opinion, incompetence, inertia and a lack of attention to detail by some politicians.

When I first confronted this perspective around two years ago I rejected it as a kind of community folk myth with little evidence to support it. So I can state quite openly that the experience since then has led me more and more strongly to the very painful conclusion that those who regarded the whole process as a muddle and a sham, have a very serious point.

West Glamorgan 1986

Chronologically the start of this process is the agreement – whether legal or political matters not – that allowed the establishment of the official Ty Gwyn site at Pant y Blawd Road in the 1980s. I shall leave it to other witnesses to explore that in more detail. I simply want to make the point that whatever the motivation, an election leaflet containing a commitment to the people of Llansamlet in the 2012 election – with a specific reference to the 1986 West Glamorgan Agreement – created a situation which inevitably led to an increase, both in volume and intensity, of the feeling that there should be no further sites in Llansamlet. This was an early example of the process making the situation worse because the criteria which included the possibility of a site in Llansamlet contradicted the undertaking given in the election.

I do appreciate why some members may feel some embarrassment and for some almost a “state of denial” about this matter. But this Committee at least needs to appreciate how much that contributed to widespread community resistance to any further site.

Was the process robust? No, because it failed to clarify or explain why the criteria did not exclude Llansamlet. Maybe an explanation could have been given but, unfortunately, it never has been.

Task & Finish Groups

The term “member-led Task and Finish Group” has been used repeatedly including in officer reports to Cabinet. If this was truly member-led there needs to be an explanation as to why the **views of the first TAFG, who did not wish to shortlist two of the five of the officer nominated sites, was overruled.** By March 2012 (over two years ago) the officers had produced the shortlist of five, but on and off for the next eighteen months denied its existence or simply emphasised that no final decision had been made.

We have yet to be told whether the second TAFG set up by the current administration was ever informed that their predecessor had rejected two of the five sites. It is disappointing that amongst many other matters, this was not raised with Reena Owen before she left.

More fundamentally, there is a view that the use of a TAFG for this process was unlawful. These are highly complicated matters but of critical importance. I am supplying you with a note written by a highly experienced legal specialist (**document no1**). I stress that this was provided as friendly assistance and not as a result of formal Instructions. However, its views correspond closely to a formal opinion expressed by Acuity Legal Services in Cardiff. It should also be said that Swansea’s Head of Legal Services refutes these arguments.

I am not suggesting that your Committee should adjudicate on this matter but I am strongly suggesting that **you should find some way of hearing independent advice from outside the Authority before you decide the crucial question of whether the use of TAFGs by the old administration and the present one, made the process robust.** There is a strong argument that you should take the latter view.

The other key point about the use of these groups was that since they had no standing in law or the Council’s Constitution, from where did Officers derive the authority to bind all the members to secrecy? This placed my ward colleague, Penny Matthews in a dreadful position during the election campaign, where the matter was continuously raised because of the Swansea Evening Post leak (which we now realise was completely accurate).

A further point is this: the first TAFG went on one site visit tour and never got off the bus. In the case of Llansamlet, they did not even have a view of the proposed site. The second TAFG made no site visits at all. The first TAFG did not visit any sites that might have been alternatives to the five shortlisted. Can this really have been a robust process?

Scrutiny

I have supplied you with a copy of a Chair’s letter that I sent to Cllr Burtonshaw on 25th October 2012 (**doc 2**). By the time she replied on 5th November (**documents 3a & 3b**) the scrutiny system had been changed and I was no longer a chair or on the new Programme Committee. I think you will see that a **number of the concerns raised in the Chair’s letter resonate with questions still being asked.**

When examining the Cabinet report referred to we find that the key questions about secrecy (1) and Community cohesion (7) have no response at all. Members of your Committee have already raised the question that it might have been better to have some plans for mitigation in place before sites were chosen and you can now see from my evidence that the same point was made well over one and a half years ago.

Some of the other replies about timetables and funding have no clear response and it is interesting to note that at para 3.6 (**3b**) there is the suggestion that the final decision would be made by Council. We were subsequently told that “Council” meant “Cabinet”.

The Committee may share my view that Cllr Burtonshaw’s response fell far short of what would have been expected

This was not robust.

Furthermore, I had wanted an enquiry to probe questions like:

- The choice between a policy of concentration in one area compared with a policy of dispersal into small sites throughout Swansea (the policy of the old West Glamorgan County Council).
- The wisdom and legality of the way that a TAFG had been used in this process.
- Where the balance should lie between the wishes of Travellers and the wishes of the rest of the community

The committee did not see these as questions to be raised at that time. I think that was unfortunate.

Who was in charge ?

I urge the Committee to clarify who was **politically in charge of this process**. If the answer were “no one” then that in itself would put a very big question mark over its robustness. It might be argued that the cabinet member for Place was in charge throughout the period of the current administration. However, Cllr Burtonshaw argued from time to time that she was not. (Living in Cockett and representing Penderry did pose some questions.) Cllr Burtonshaw stated from time to time that Cllr Nick Bradley, the Chair of the second TAFG, was in charge of the process, but Cllr Bradley firmly repudiated this. In reality, since under Swansea’s constitution all executive authority is delegated to the Leader, the Committee might take the view that Cllr Phillips was in charge. However, it is also on record that responsibility for the process rested with officers alone.

I urge the Committee so seek clarity on this fairly fundamental issue so that appropriate questions can be addressed to whoever was in charge of the process.

Needs Assessment

The needs assessment conducted by housing officers is at the heart of the whole site selection process. Other than a transit site it determines the size and number of sites deemed to be required. The needs assessment presented to the special meeting of full council last year set out the need for 10 pitches currently and potentially another 25 within 5 years. (Please see the relevant **document 4** supplied by the officer responsible.) These could broadly be characterised as

- a. The family on the illegal but tolerated park and ride (P&R) site.
- b. The forecast future requirements arising from the expansion of the family occupying the official at site Pant y Blawd Road.
- c. The requirements of another family who had left the official site some years ago, (and then the illegal but tolerated site,) were considered to be covered by the Cardiff court judgement and who have been camping illegally around the enterprise park on and off for years.
- d. People from Gorseinon, Morrision and Birchgrove who may have a requirement at a future stage.

Council was told that the identification of the need for 10 pitches with the possibility of some additional contingency and, may be, some pitches for transit Travellers, meant that the maximum size of site required was one with 20 pitches. Conveniently this is widely regarded as about the upper limit to which one can stretch Welsh Government guidance, which recommends an optimum number of 12 pitches per site.

Some of the major problems with this approach are that transit pitches on sites with permanent pitches is problematic and leads too frequently to unnecessary conflict. The expansion of the park & ride family could very easily take the assessment past the estimated provision (there are currently 17 caravans on the illegal but tolerated site and the Council's Traveller Liaison Officer assures us that they are all members of the P&R family). (Document 5)

A planning inspector in granting permission for a private site of four pitches at Drummau House on Birchgrove Road (for the family described as Scott Pit Cottage) ruled that the planning consent would only last until the Council had provided sufficient accommodation for the applicants to go to. The Planning Inspector also took the view that the Council's needs assessment was seriously underestimating the pitches that would be required in Swansea. The Council did a new survey, came up with more or less the same numbers as previously and a senior officer cheerfully told the four Llansamlet councillors that the Inspector's views were "nonsense". We might agree that the Planning Inspector has it wrong but it is a very big leap of faith to assume that, when the Welsh Government evaluates our needs assessment (as will be required by law from 1st January next year), they will agree with our housing officers rather than the Planning Inspector.

The Needs assessment total 35 pitches possibly needed 5 years from now

The Committee might seriously ask itself whether there has been a strong tendency to bend the facts to suit the argument. The point is that if one believes all the Council's own arguments we could be looking for two or three new sites as well as a separate transit site. That would have implied an entirely different public consultation and selection process to the one we have been through.

HOWEVER, I would argue as follows:

1. The Inspector's report on Drummau House could be disregarded for the time being since there appears to be no progress on that site and there are good reasons to believe that the planning application may have been somewhat speculative.
2. Although part of the family (who had left the P&R) reappeared illegally in the enterprise park in the Easter holiday, the truth is that their permanent home is now believed to be on a site near Birmingham where they have been since last December. Indeed, the report that the Chief Executive presented your Committee with at your first session was inaccurate because he did not appear to know that that family had left the area. Surely, we are not looking for pitches just in case these people return? And would we regard people who had left Swansea and then come back at a later time as being a priority for council housing?
3. Possible future requirements for Travelling showmen are also extremely hypothetical. Up to now these people are occupying Private sites.
4. The realities on the ground, which the more senior officers of our authority sometimes fail to realise, are far more important than the more abstract formulations that they deal with. The strong likelihood is that expansion of the Panty Y Blawd family will be dealt with in one way or another by the that family and their need for additional pitches elsewhere is seriously hypothetical. This takes us back to the needs of the P&R family on the 'park and ride' site and it was the perceived need to find new alternative legal accommodation for them that dramatically escalated the extremely relaxed approach prior to the Cardiff court decision into far more focussed activity after it.

5. On the basis of the current information from the Traveller Liaison Officer there has already been a doubling of the requirements for the Park & Ride family. This means that either the needs assessment presented to Council little more than six months ago is nonsense, or there are a large number of people on the Park and Ride Site who have no right to be there. Furthermore the head of the P&R family has been explaining to Police Officers that he is expecting to be joined by more of his family in the coming weeks.

A Transit site

At this point can I emphasise to the Committee how unclear the process has been about the whole question of a transit site?

It is Travellers passing through Swansea and parking illegally in the enterprise park for periods from a few days to a few weeks, particularly in the summer when heading to and from Ireland via ferries, that has caused the most concern to local residents and businesses. It is often these encampments that leave excessive litter and damage behind them which is strongly resented by the settled Traveller community since they are often blamed.

As I have pointed out elsewhere, it would be sensible to plan for a transit site to be separate to any other sites and it would also have been sensible to discuss the possibilities for this with neighbouring authorities along the M4 corridor. **On the question of a transit site the process is a serious failure.** I would suggest this is a further indication that in reality, this process has been about the Park and Ride family and little else.

Park and Ride

The Committee should know that on several occasions, at the insistence of ward councillors, vacant pitches at the official site have been offered to the P&R family (and the family who have been illegally camping in the Enterprise Park) who have turned them down. This re-occurred only a few months ago when three pitches were available. I have yet to receive a logical explanation as to why the housing officers who manage the Pant y Blawd site and who see no point in continuing to offer vacant pitches to these families because they are bound to refuse, have not achieved some joined up thinking with the other housing officers who continue to produce assessments stating that the Pant Y Blawd family have a need.

I do not accept the argument that unless there are sufficient pitches for all the P&R family, they are entitled to reject the offer. This would not be the case with council house tenants.

During the site visits that preceded the special meeting of full council last year, when asked why a particular site was not appropriate, the Traveller Liaison Officer replied “because the Travellers won’t live here”. The head of the P&R family has told myself that he has no intention of moving anywhere else from his current location. Similar intentions have recently been shared with a Community Police Officer.

A growing number of people are concluding, rightly or wrongly, that whatever may have been said in other meetings, the reality is that it is increasingly unlikely that the Council would be able to get an eviction order against the P&R family even if suitable accommodation was available elsewhere. Remembering my earlier remarks about longstanding assumptions in the Llansamlet community, what is now emerging is not just that the Council will be unable and will not try to move the P&R family anywhere out of Llansamlet, but that they may not be able to move the P&R family anywhere else in Llansamlet either. (Please understand that I would not welcome that outcome, but I am strongly challenging the Council to clarify this issue.)

The Committee has already begun to explore why there was not far greater clarity about ‘the rights of the Traveller families’ before the selection process started. The worst thing that can happen is that we end up with a new site and the problem of the illegal but tolerated site continuing.

I do not want to appear to have a closed mind on this matter but I would argue that the Committee should discuss very carefully the **Cardiff court judgement, which, it seems to me, has a lot more to do with the errors of an officer in the preparation of a crucial report to the cabinet than the formulation that the P&R family cannot be moved until the Council has found another site.** In any case, if this were the key issue then there is not only the point about the vacant pitches declined at Pant y Blawd Road but also the question of whether that family have shown any interest in the four pitches that could be available at Drummau House if the planning consent were realised.

The Committee might take the view that this was not a robust process because the main reasons given for needing further sites are **far more in doubt than has been acknowledged along the way.** No legal officer has stated with any confidence that the existence of a further site will make an eviction order a strong probability. The formulation has nearly always been that the chances would be better than would otherwise have been the case.

Peniel Green Road Site: Ludicrous and Two Sites

The **seriously inappropriate character of the sites at Peniel Green Road** is in itself a major indication that this was not a robust process. As one colleague put it during the site visit, “if you come up with such a silly answer it can’t have been the right question”. Some of you will recall the incredulity of colleagues when we had overcome the officers’ reluctance to actually walk onto the site and people started to ask how on earth anyone had taken this proposition seriously.

An indication of the process not being robust was the Council’s response to the carefully researched, authoritative and detailed technical response by former council leader, Lawrence Bailey. There was no meaningful reply to the major fall backs and contradictions that he illustrated.

I shall leave it to others to elaborate on how this sloping, sodden field, very close to residential housing, resisted by the Council’s own Economic Regeneration Department, with electricity pylons, disused mine workings, proximity to a railway line and no access road could ever have got to a shortlist of five, let alone two.

However, I do want to make one specific point. **This was not one site, it was two.** Here was another fundamental flaw in the process. No one knew which site we were being consulted about. One site would have had a shorter access road but a far more difficult sewage solution and it is clear from working papers that were not published in the consultation, that there were evaluation of two different sites, just like the two sites at Gorseinon. If someone argued that the site was too near the houses on Peniel Green Road, they were told that the site could be at the bottom of the field. If someone argued that the site at the bottom of the field would require major alterations to Gwernllwynchwth, they were told that the site could be at the top of the field, and so on.

Only part of the site was designated for housing and another part was committed to a joint enterprise that would require the Welsh Government’s approval to release it. Whichever obstacle was raised, the goal posts were promptly shifted somewhere else.

As I have already argued, the shortlisting of this site and lack of clarity about it, rendered the process far from robust. Indeed, so inappropriate was it that increasing numbers who were following this saga, began to advance the theory that Peniel Green Road was a “decoy” and that at a suitable juncture the Council would finally revert to “square one” and propose that the P&R family should simply remain officially at the park and ride site and that planning approval should be sought.

Some of us could see this coming and in consideration of withdrawing a Councillor's question to the Cabinet member for Place, there was a meeting between the four Llansamlet ward members, Cllr Burtonshaw and various officers - Reena Owen, Martin Saville, Patrick Arran. Cllr Burtonshaw's "assistant" (Cllr. Clive Lloyd) was also present.

We asked if, when the report and recommendations went to full Council, we would be given an outline of the Peniel Green Road proposed site with **clear boundaries** as would be required for a planning application. We were told that although there would be no internal layouts shown, if the site was shortlisted the boundaries, (ie the precise location within the huge area) would be made clear. **This did not happen.** On the day of the site visit a somewhat embarrassed Mr Saville had to explain, pointing to a layout of the whole area, that the site would be "somewhere between here and here", pointing to the top and the bottom of the field.

As explained at the start, I am not endorsing conspiracy theories. However, it is clear to me that there were officers who were very unhappy about Peniel Green Road but did not regard it as their place to say so. There were officers, and may be some politicians, who would have preferred the impasse to go on forever, ("it's already taken 28 years since 1986 to find the second site, what's wrong with another 10?"). Some people thought that the main point of all of this was "to be seen to be doing something" to avoid a kicking from the Welsh Government.)

Those officers who were of the view that there was an inevitability to the P&R family staying at the Park and Ride would not be particularly concerned about these strange diversions and those with considerable authority, but little time to assess the details, were simply unaware of the mess that was accumulating.

Pant y Blawd Road

At full council Jimmy Gilheany advocated the expansion of the existing site at Pant y Blawd Road as a solution to the problem. The 'line' from officers has always been that this is not possible because there is a flood risk.

The Committee should ask whether the Council has ever received formal advise that Natural Resources Wales would object to the extension of Pant y Blawd Road. If there is such advice, you should ask to see it and study its terms. My researches indicate there was no such advice.

But in any event, what would be the cost of further flood defence works that would cause the existing site to have less of a flood risk as well as an extension. (Might such works cost less than a new site elsewhere? Would there not be significant funding from Natural Resources Wales as well as the Welsh Government? I am taking no position as a ward councillor on what view I would have on such a proposal. But it does seem to me that the next step in this process should be a clarification of the position at Pant y Blawd Road. However, there would be little point in that process going much further without a clear understanding that the P&R could then be required to move there. **I simply put it to the Committee that they should seek an explanation as to why that elementary step cannot be taken.**

As things stand, the suspicions grow that in reality the **whole site evaluation process has been an exercise to postpone the fundamental question of whether the family can be moved from the Park and Ride** and, of course, the longer this goes on the more difficult it will be for the Council to move them.

Llansamlet

The strange thing about this process from the start has been the atmosphere, the unwritten rule, the 'culture' that seems to imply that the people who should be taken least notice of are the elected members and the residents of Llansamlet. You may believe that this is not specifically to do with the 'robustness of the process' but the level of pressure on those anxious to point out the errors and misinformation as we went along, has been enormous. I have found it distressing and at times, it has made me quite ill.

It is beyond argument that this is the ward that has the only official Traveller site in Swansea, has tolerated the illegal site and has been subject to almost countless other illegal encampments. Is it not patently obvious that these are the people who would have taken the closest interest in the whole process and would have been best placed to challenge its failings.

The longer these issues remain unaddressed the greater will be the feeling that this process not only failed to be fair and robust but, in some respects, became thoroughly nasty and increasingly corrupted.

Cllr. Uta Clay
Member for Llansamlet
April 23rd, 2014

The Status of Task and Finish Groups

1 Background

The Cabinet of the authority has resolved to establish a task and finish group comprising a majority of members of the majority party group and a minority of members from each of the other groups on the Council, to review work undertaken to date in implementation of a Cabinet Policy decision on an executive function and to report back to Cabinet with recommendations on the further implementation, including recommendation of preferred sites for development.

The phrase "Task and Finish Group" does not exist in local government legislation, so we need to try to work out what sort of animal it is.

2 The Task and Finish Group cannot be a Committee or Sub-Committee of Council –

Section 101 of the Local Government Act 1972 provides that Committees must be appointed by Council, and Sub-Committees must be appointed by Committees. If it was a Committee or Sub-Committee of Council it would have to be appointed in strict proportionality to the strengths of the various party groups on Council, and it would be subject to the access to information requirements of Sections 100A to K of the Local Government Act 1972, requiring the advance publication of the agendas and reports, listing background papers, and the approval and publication of minutes at the next convenient meeting of the Task and Finish Group, and the public right to attend the meetings of the Task and Finish Group, unless it resolved to exclude press and public on the basis that it was about to consider "confidential" or "exempt" (as defined in Schedule 12A of the Local Government Act 1972) information. It would appear that this has not been done.

3 The Task and Finish Group cannot be a Sub-Committee of an Overview and Scrutiny Committee –

Section 21 of the Local Government Act 2000 provides for Council to establish Overview and Scrutiny Committees, and for Overview and Scrutiny Committees to be able to establish Overview and Scrutiny Sub-Committees. The functions of such Committees and Sub-Committees can include reviewing the discharge of executive functions and making recommendations to Cabinet, and an Overview and Scrutiny Committee or Sub-Committee would normally be subject to proportionality and so could comprise members of both the majority and minority parties.

However, Overview and Scrutiny Committees must be appointed by Council, and Overview and Scrutiny Sub-Committees must be appointed by Overview and Scrutiny Sub-Committees, not by Cabinet, and Section 21(9) provides that such Committees and Sub-Committees may not include any member of the Cabinet. Further, Overview and Scrutiny Committees and Sub-Committees are subject to exactly the same rules on access to information, publication of agenda and reports and public access to meetings as any other Committee or Sub-Committee of Council.

4 The Task and Finish Group cannot be a Committee of the Cabinet –

Section 15(4) of the Local Government Act 2000 provides that the Executive Leader may himself discharge any of the executive functions or may arrange for the discharge of any of those executive functions by the Cabinet, by another member of the Cabinet, by a

Committee of the Cabinet or by an officer of the authority. However, a Committee of the Cabinet can only comprise members of the Cabinet. There is no power in the Local Government Act 2000 which enables a Cabinet Committee to co-opt persons onto the Committee who are not members of the Cabinet, in contrast to Section 102 of the Local Government Act 1972 and the power to co-opt onto Committees of Council. It would be possible to set up a Committee of Cabinet comprising a defined number of members of the Cabinet and then invite other members to attend and speak at meetings of the Cabinet Committee, but the non-Cabinet members would not be able to vote on the Cabinet Committee. Also, as a Cabinet Committee, the Task and Finish Group would be subject to the requirements of the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001, Regulation 4 of which only permits the exclusion of press and public by resolution, where the meeting is likely to consider confidential or exempt information, and Regulation 5 of which requires the prior publication of the agenda for each meeting, together with any reports which the Proper Officer has not judged to disclose confidential or exempt information.

5 So, what is it?

The answer is that it is not a legally recognised body, and so cannot have delegated to it the discharge of any executive or non-executive function of the authority and cannot make a decision or recommendation in its own name.

At best, it is an ad-hoc group of Councillors who are to be consulted by an officer before the officer takes a decision or makes a recommendation back to Cabinet.

6 Does it matter?

It would appear that the process under which the evaluation was undertaken by Task and Finish Group was unlawful and so no valid recommendation can have been received by the Cabinet from the Group.

It may be possible for the Cabinet to remedy the defect by itself repeating the evaluation process on the basis of the information provided to the Task and Finish Group by officers.

In order to persuade a Court of Law to declare the process and the decisions which are based on that process to be invalid, it would be necessary to demonstrate that there was a real injustice, which might be the case if affected persons or groups were denied the opportunity to make representations and influence the evaluation and decision-making process which they would have had if the process had been properly undertaken by a lawfully constituted body complying with the statutory requirements, for example on access to meetings and to information, or if it could be demonstrated that the improper composition of the Task and Finish Group was likely to have affected the outcome of the evaluation and the Group's eventual recommendation. Mere procedural irregularity will not normally succeed as a basis for judicial review in the absence of demonstrable injustice.

2



CITY AND COUNTY OF SWANSEA
DINAS A SIR ABERTAWE

Councillor June Burtonshaw
Cabinet Member for Place
Civic Centre
Oystermouth Road
SWANSEA
SA1 3SN

Please ask for:
Gofynnwch am:

Direct Line:
Llinell Uniongyrchol:

e-Mail
e-Bost:

Our Ref
Ein Cyf:

Your Ref
Eich Cyf:

Date
Dyddiad:

Overview & Scrutiny

01792 637257

scrutiny@swansea.gov.uk

SSC/2012/2

25 October 2012

Dear Councillor Burtonshaw,

Stronger & Safer Communities Scrutiny Board – 1st October 2012:
Work to Identify & Evaluate Potential Gypsy Traveller Sites

At our last Board meeting a discussion took place in relation to amending the Work Plan timetable and bringing forward a session to ask questions about the work to identify potential Gypsy Traveller Sites.

I raised some concern about this issue and felt the Board should ask questions to gain clarification about the process that is being followed by the Authority. The Board was, however, mindful of not duplicating work, and the appropriate timing to look at this issue. It was appreciated that things may still be at an early stage.

The Board decided that, for the time being, they did not wish to agenda an examination of this issue. However, it was agreed that we should instead write to you requesting clarification on the latest position in respect of work to identify potential Gypsy Traveller Sites. It is important that the Authority has a transparent and robust process, and that this matter is progressed without delay, with clear targets.

There are a number of important issues and questions that we would like bring to your attention, as follows:

Cont'd....

OVERVIEW & SCRUTINY / TROSOLWG A CHRAFFU
CITY AND COUNTY OF SWANSEA / DINAS A SIR ABERTAWE
CIVIC CENTRE, SWANSEA, SA1 3SN / CANOLFAN DDINESIG, ABERTAWE, SA1 3SN

www.swansea.gov.uk

1. There has been widespread interest in the evaluation process currently being conducted by Newport City Council and it would be helpful if there could be some explanation as to why it has been deemed appropriate for Swansea to adopt such a different approach. Most importantly, it would be helpful if we could have an explanation of why there has been such secrecy as to the sites being shortlisted when this has been done in such a transparent manner in Newport.
2. Could we and the public have some indicative time table for a process that will lead, say, to the submission of a planning application for a site or sites?
3. At what point would the public consultation on any proposed sites commence and what would be the minimum likely period for such consultation? (The uncertainty relating to these matters is creating considerable alarm in some communities and is enabling some people to argue that, if they do not express their opposition now, it will be too late).
4. Does the Member Task & Finish Group (established by Cabinet on 5 July 2012) still exist and if so, what is its ongoing role? (A number of letters and press statements have given the impression that there is now a process involving council officers and some form of independent assessment. The lack of clarity leads to further unnecessary fear and suspicion).
5. Does the Cabinet expect to review any report from the Task & Finish Group, officers or independent assessors or will a recommendation go directly to full Council? (A number of members have gained the impression that it is intended that recommendations go to full council by the end of this year. If this were the case it clearly highlights the previous point about the need for some kind of timetable since it is difficult to see how there could be a full public consultation if that were the deadline).
6. There is also a belief that there is a deadline at the end of the current financial year which has to be met in order to qualify for some kind of grant aid. If this is the case, it is important that this should be made clear so that all interested parties understand the time pressure now influencing the process.
7. Finally, there is a much wider point about the scope of this process. Wherever a new site or sites are located, there is going to be inevitable community concern and resistance. (It is unarguably the case that for several years the main interest that politicians have shown in this matter is to resist sites being located in their own ward). Currently, there does not appear to be any work in preparation to maximise opportunities for community cohesion, tolerance and avoidance of unnecessary conflicts. It may be appropriate for the Equalities Committee, the Education Service and may be some other council departments to be preparing contingency plans and it may also be necessary to allocate funding, not only for the

eventual site preparation but for the community cohesion issues I have mentioned.

The Board would be grateful for your response to this letter.

Yours sincerely,

A handwritten signature in black ink that reads "Uta Clay". The signature is written in a cursive style.

COUNCILLOR UTA CLAY

Chairman, Stronger & Safer Communities Scrutiny Board

✉ uta.clay@swansea.gov.uk

cc: Cllr Clive Lloyd, Vice-Chair
Reena Owen – Corporate Director (Environment)
Head of Public Protection – Martin Saville



CITY AND COUNTY OF SWANSEA
DINAS A SIR ABERTAWE

Councillor Mike Day
Chair of Scrutiny Programme Committee

Please ask for:
Gofynnwch am:
Direct Line:
Llinell
Uniongyrchol:

Councillor June Burtonshaw
(01792) 636926

E-Mail / E-Bost:
Our Ref / Ein Cyf:
Your Ref / Eich
Cyf:
Date / Dyddiad:

june.burtonshaw@swansea.gov.uk
JEB/JW

5 November 2012

Dear Councillor Day

**RE FORMER STRONGER AND SAFER COMMUNITIES SCRUTINY BOARD – 1ST
OCTOBER 2012
WORK TO IDENTIFY AND EVALUATE POTENTIAL GYPSY TRAVELLER SITES**

I would refer to the letter dated 25th October 2012, from the former Chair of the former Safer and Stronger Communities Scrutiny Board.

In response, I would refer you to a recent report to Cabinet (a copy of which is attached), which sets out the approach to be followed with respect to the Identification of Additional Gypsy Traveller Site provision within the City & County of Swansea.

Yours sincerely

**COUNCILLOR JUNE BURTONSHAW
CABINET MEMBER FOR PLACE**

**COUNCILLOR/Y CYNGHORYDD
JUNE BURTONSHAW
CABINET MEMBER FOR PLACE
AELOD Y CABINET DROS LEOEDD**

CABINET OFFICE, CIVIC CENTRE, OYSTERMOUTH ROAD, SWANSEA SA1 3SN
SWYDDFA'R CABINET, CANOLFAN DDINESIG, HEOL YSTUMLLWYNARTH, ABERTAWE SA1 3SN

☎ (01792) 636926 ☎ (01792) 636196
✉ june.burtonshaw@swansea.gov.uk www.swansea.gov.uk

Report of the Cabinet Member for Place

Cabinet – 1 November 2012

APPROACH TO THE IDENTIFICATION OF ADDITIONAL GYPSY TRAVELLER SITE PROVISION

Purpose:	To seek Members endorsement of the approach to be followed with respect to providing assurance on the work carried out to date regarding the identification of additional Gypsy and Traveller sites and to agree the way forward with respect of the public consultation.
Policy Framework:	Gypsy Traveller Policy, Housing Act 2004, Planning and Compensation Act 2004, Welsh Government Circular 30/2007
Reason for Decision:	To endorse the approach proposed and the proposed programme of public consultation.
Consultation:	Legal and Finance.
Recommendation(s):	It is recommended that: a) Cabinet endorse the approach outlined in paragraph 3.0 b) A Member drop in session is arranged prior to the commencement of the Public Consultation. c) A public consultation exercise is commenced seeking opinions on the outcomes of the exercise so far. d) The consultation process include web pages that confirm: <ul style="list-style-type: none">• The rationale for the work• The legislative framework in place• Details of the assessment procedures adopted• The site filtering criteria applied• Details of all Council owned land reviewed• Outputs from the assessment• The minutes of the Task & Finish Group meetings. e) The results of the consultation exercise are reported back to Council for consideration in deciding which, if any, sites are taken forward for planning permission.
Report Author:	Martin Saville, Head of Public Protection
Finance Officer:	Kim Lawrence
Legal Officer:	Debbie Smith

1.0 Background

- 1.1 Members will be aware that a Member led Task and Finish Group was originally set up in August 2010 to identify potential sites for provision of new Gypsy & Traveller accommodation and that the Group was reconstituted in May 2012. The work of the Task & Finish Group was necessary to comply with the Council's statutory duty to consider the housing needs of Gypsy Travellers and to make adequate accommodation provision for these needs.

2.0 Work of the Member Task & Finish Group

- 2.1 The work of the Task & Finish Group involved looking at all Council owned land within the City & County area. Stage 1 of the filtering exercise centered on the exclusion of sites that suffered from defined constraints including flooding issues and being positioned within environmental designated areas which culminated with the identification of 1006 sites. Stage 2 ventured further to exclude sites that were contrary to agreed site specific constraints detailed at Appendix A, such as being below a site size threshold (more than 0.5 ha), highway and leasing issues. This reduced the number of appropriate sites down. These sites were then further refined during Stage 3 with the application of Welsh Government legislation/guidance and an appreciation of the provisions of Policy HC9 (Gypsy & Traveller Caravan Sites) of the Unitary Development Plan which resulted in a realistic number of site options being presented.
- 2.2 All of the Stage 2 filtered sites were assessed individually and their suitability was tested in recognition of the likely requirements associated with their consideration via the planning application process. The sites were assessed for their relative accessibility to key services, such as medical, retail, education and transportation provision/facilities
- 2.3 Identification of site(s) will help the Council provide adequately for the needs of Gypsy Travellers and assist in dealing with the ongoing issue of unauthorised encampments. There are examples around the country where Councils have dramatically reduced the stress, disturbance and expenditure on unauthorised encampments through the provision of authorised and well managed transit and permanent Gypsy Traveler Sites.

3.0 Proposals

- 3.1 Given the sensitivities in this process, it is proposed that the following steps now be taken to provide assurance with respect to the work of the Task and Finish Group.

3.2 Independent Management Review

A nominated, independent, Head of Service will review the process to date. The review will examine the criteria set and their link to regulations/legislation/policy. The review will then assess the application of the criteria from the outset. The purpose is to ensure the criteria have been consistently

applied at each stage and that as the sites have been sieved, the only basis utilised is the criteria.

3.3 Independent External Professional Review

An appropriate professional from a neighbouring authority will undertake assurance work as in 3.2 above.

3.4 Member Awareness

It is important that all members fully understand the process and the way in which the criteria have been applied. It is therefore proposed that a member drop in session is organised with relevant officers in attendance.

3.5 Public Consultation

3.5.1 There is a need for the public to understand how the process has been undertaken and what filtering criteria have been used.

3.5.2 Consultation will take place via the Council's web site and through the Leader newspaper publication. Consultation will include providing all information including,

- a) every site considered from the outset.
- b) the work of the T&F Group.
- c) criteria used in filtering
- d) legislation/regulation/guidance etc.

3.5.3 A communication plan is being developed which will assist in the process of communication with the public.

3.6 Council

Following the public consultation exercise, a full report on all of these matters will be made to Council prior to Council deciding which site or sites are to go forward for Planning Permission.

4.0 Financial Implications

4.1 There are no budgetary implications in the consultation exercise other than the cost of facilitating the consultation and staff time in collating the responses. It should be noted that there is no budget provision for the development costs of a new permanent Gypsy & Traveller site(s) once identified.

5.0 Legal Implications

5.1 Section 225 of The Housing Act highlights the fact that Gypsy & Travellers should be included in the Housing Needs Assessment. The Council has complied with this requirement since the legislation was brought into force in

2007. The Housing Needs Assessment found that there is an identified need for Gypsy & Traveller accommodation in the area.

- 5.2□ Through the provisions of the [Local Development Plan](#), the Council has a legal duty to identify suitable residential and transit sites for Gypsies & Travellers, if a need is demonstrated. Failure to do so would result in the Welsh Government deeming the Plan unsound unless it includes a sufficient and deliverable number of Gypsy & Traveller sites.
- 5.3 Failure to identify suitable permanent Gypsy & Traveller site(s) may compromise any future applications for possession orders on unauthorised sites being used by Gypsy & Travellers in Swansea.
- 5.4 Full cross departmental consultation will be required when considering potential sites in order to ensure compliance with the relevant policies and legal provisions.

Background Papers: None.

Appendices: Appendix A – List of Criteria

(4)

Site Address	Site Type	Adults	Children	Total Number of Households	No. of Caravans/ Trailers	Current Pitch Requirement	Additional Pitch Requirement in 5yrs
Ty Gwyn, Llansamlet	Council	10	27	7	14	0	7
Swansea Vale (Park & Ride), Llansamlet	Unauthorised (Tolerated)	8	19	7	8	7	2
Mill Stream Way, Llansamlet	Encampment	3	10	2	3	2	0
Olympus Court, Llansamlet	Encampment	2	6	1	5	1	4
Cwmbach Road, Cockett	Private	14	14	7	13	0	0
Scott Pitt Cottage, Birchgrove	Private ¹	8	3	4	0	0	4
Various	Bricks & Mortar ²	4 (+6)	3 (+9)	2 (+4)	0	0	0
Total		49 (+6)	82 (+9)	30 (+4)	43	10	17

¹ The 4 households listed declined to take part in the Assessment but have been included as they have been granted planning permission to build 4 pitches on their own privately owned site

² Figures in brackets relate to 4 separate G&TC households known to the Council but who declined to take part in the Assessment/ failed to respond to contact

Fig. 19: Travelling Showmen Community Sites

Site Address	Site Type	Adults	Children	Households	No. of Caravans/ Trailers	Current Pitch Requirement	Additional Pitch Requirement in 5 years
1a Railway Terrace, Gorseinon	Temporary Lease	9	8	5	10	0	6
Plot next to Railway Terrace, Gorseinon	Private	-	-	-	-	-	-
Duke Fairground, Morriston	Private	1	2	1	3	0	2
Brighton Road, Gorseinon	Leased	4	-	2	-	-	-
Total		14	10	8	13	0	8

The following are a list of definitions for fig. 18 & fig. 19

Current Pitch Requirement

The figure for the current pitch requirement if a new site was developed immediately

Additional Pitch Requirement

The figure for the potential future pitch requirement is if a site was developed in 5 years time. This incorporates the existing need and all children listed in the above table that will be aged 18+ in the next 5 years. Traditionally, children marry fairly young within the culture, hence the base age being set at 18.

No. of Caravans/ Trailers

The most recent official Caravan Count was undertaken in January 2013 and the total figure was 29. However, new private sites have come to light since then, hence the current figure being higher.

Households

The number of separate households living on the respective sites/ and or other accommodation. Each household will require one pitch.

Reply Reply to all Forward Close Help

i You replied on 17-Apr-14 12:59 PM.

From: Malough, Simon (Public Protection)

Sent: Thu 17-Apr-14 9:31 AM

To: Clay, Bob (Councillor)

Cc:

Subject:

Attachments:

[View As Web Page](#)

Dear Cllr Clay

In response to your recent telephone conversation with Huw Morgan I can provide you with the following information in regards to the temporary / tolerated Gypsy Traveller site off Mill Stream Way:

- *There are 17 caravans in total, 4 of which are for storage.*
- *17 adults are on site, including partners. All are the [REDACTED] family*

Regards

Simon Malough

Traveller Liaison Officer

Housing & Public Health Division / Isadran Tai ac Iechyd Cyhoeddus

Housing and Public Protection Service / Gwasanaeth Tai a Diogelu'r Cyhoedd

*Directorate of Place / Cyfarwyddiaeth Lleoedd
City & County of Swansea / Dinas a Sir Abertawe
Civic Centre / Canolfan Ddinesig
Oystermouth Road/ Heol Ystumllwynarth
Swansea/ Abertawe
SA1 3SN*

Evidence from Cllr Penny Matthews:

Her evidence was based on her involvement in the first Member Task and Finish Group meetings. The membership of the Task and Finish Group comprised former Councillor J Hague (Chair), former Councillor J Evans (Vice Chair), Councillor A C S Colburn, former Councillor R Smith and herself.

Key points:

- The process had been explained to Members, and Officers marked maps which detailed Council owned land. Officers had stated that they were looking for 10 to 12 pitches. The inference was that only Council owned land would be examined.
- The process went on for weeks. Meetings were held on an ad hoc basis and were often cancelled as work required to be undertaken by Officers had not been completed on time. She stated that she had raised her concerns with the Chair, former Councillor John Hague, regarding the lack of progress, and former Councillor J Hague also expressed concern that the process was taking too long. She also stated that the terms of reference of the Task & Finish Group were not clear.
- She asked Officers to look at sites which had been identified in the 1980's as the process would be a huge expense and looking at previously identified sites may short circuit the process.
- She had requested to offer 2 available pitches at the official site on Pant y Blawd Road to the families at the Park and Ride Site. But she got the impression that Officers appeared to be reluctant to do this. However, having checked with Officers at the following meeting she was told that the families had refused the offer.
- Meetings were led by Officers who had sifted through the original 19 sites identified to a shortlist of 5 sites. She stated that no-one could explain the rationale at arriving at 5 sites. Although a brief summary had been provided in respect of evidence in support of eliminating sites from the shortlist.
- She referred to land at Heol y Gors which had been used by travellers on many occasions over the years. She stated that this land had not been identified in the 19 sites and could not understand why this was the case. She stated that the Task and Finish Group unanimously agreed that the land at Heol y Gors should be examined as part of forthcoming site visits.
- The sites at Penlan and Llansamlet had been rejected by all 5 members on the Task and Finish Group. Site visits were organised and included the sites at Penlan and Llansamlet, despite members requesting that these be discounted from the shortlist. She stated that following discussion with the Chair, she engaged in a heated exchange with the Officer regarding the

inclusion of the Penlan and Llansamlet sites and the exclusion of the site at Heol y Gors.

- Reasons for the Task & Finish Group considering the Penlan and Llansamlet sites as not sound:
 - members discounted the Penlan site as it was located close to a housing complex in what was deemed to be a deprived area.
 - in respect of Llansamlet, a site was already situated there and the land identified was unsuitable for numerous reasons. She stated that officers had no provided adequate explanations in respect of why members' views were not valid.

- She provided a letter written to former Councillor John Hague from the former officer, Martin Saville (attached).

- The site visit had been rushed and members were told that a further meeting would be organised to discuss the findings of the site visits.

- Councillor Penny Matthews advised that, save the site at Heol y Gors, no further sites were suggested. She confirmed that no explanation or details of ranking of sites had been provided.

- She referred to the 1986 agreement and questioned why only 5 sites had been identified. She stated that Councillor Chris Holley, former Council Leader, had stated that a decision would be made by Council.

- She confirmed that she was aware of the issue of confidentiality of the Task & Finish Group, which had placed her in a difficult situation in so far as she could not discuss any issues.

Councillor John Hague

M Saville

(01792) 635602

MS/sjj/L0109

26th March 2012

Dear John

Gypsy Traveller Task & Finish Group

As we have discussed, there is a very serious concern that the decisions made by the Task and Finish Group have to be based on sound principles with logical reasons for the exclusion of sites during the consideration process.

Any challenge by the Gypsy Traveller community, and there may well be one, is more likely to be successful if it cannot be demonstrated that due consideration has been given to all sites.

The sites eliminated to get down to the shortlist of five, can be demonstrated to have been properly considered. The reasons given by Members at the last meeting for discounting the Penlan and Llansamlet listed sites are not sound and will not stand scrutiny if a challenge process is forthcoming.

It will be far more sensible to look at all five sites whilst on the site visit. This will add very little time to the overall exercise and will demonstrate that sites have not been excluding unnecessarily or arbitrarily.

It will still be for Members to report back to Cabinet with their views on the options available but Members and yourself will be much less likely to a successful challenge at a later date.

Equally, the Gypsy Travellers have to be involved at some stage. Leaving that to the Planning application stage would probably be seen as "unfair". If members ultimately decide to develop a site which they won't use, the entire exercise will have been a failure. Members may feel unable to accommodate any preferred site identified by the Travellers but at least it could be demonstrated that they have been part of the process and consulted.

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It is not appropriate to take the Gypsy Travellers on the Council bus to view the sites as Members may wish to take advice from officers during the course of the visits, but they really should be involved around the table before options are forwarded to Cabinet.

As I say, this will safeguard yours and the members position as far as possible and I would urge you to take the professional advice and modify the approach.

Yours sincerely

REENA OWEN
DIRECTOR