

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