

Report of the Scrutiny Programme Committee

Cabinet – 18 February 2016

**SCRUTINY OF GYPSY TRAVELLER SITE SEARCH PROCESS –
FINAL REPORT**

Purpose:	This report presents the key findings and learning points/recommendations resulting from the Committee's Review into the Gypsy Traveller Site Search Process.
Policy Framework:	Council Constitution.
Reason for Decision:	To consider the learning points/recommendations made by the Scrutiny Programme Committee and agree action.
Consultation:	Legal, Finance, Access to Services
Recommendation(s):	It is recommended that: 1) Cabinet receives the report and tasks the relevant Cabinet Member to report back to the Cabinet meeting on 21 April 2016 with a written response to the scrutiny recommendations and proposed action(s) for Cabinet decision.
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1.0 Introduction

- 1.1 This report presents the key findings and learning points/recommendations resulting from the Committee's Review into the Gypsy Traveller Site Search Process. The Scrutiny Committee's final report, appended, requires a Cabinet decision.
- 1.2 In accordance with the Council Constitution reports from scrutiny to the Executive are presented to the first available Cabinet meeting. The Vice-Chair of the Scrutiny Programme Committee, who led this review, will present the report and accompanying learning points/recommendations.

2.0 Scrutiny Programme Committee

- 2.1 On 4 February 2016 a special meeting of the Scrutiny Programme Committee was held to conclude the review. The Committee discussed and agreed the final report for submission to Cabinet.

3.0 Cabinet Decision

- 3.1 At this meeting the role of the Cabinet is to receive the report and task the relevant Cabinet Member to prepare a written response on behalf of Cabinet. The Cabinet Member's response report should be scheduled for a future Cabinet meeting **no later than two months** following formal receipt of the scrutiny report (in this case this will be Cabinet on **21 April 2016**).
- 3.2 In their response report the Cabinet Member should recommend approval or rejection of each of the scrutiny recommendations together with an explanation. Within their report the Cabinet Member should also provide a proposed action plan to show what steps are being or will be taken to implement recommendations. Cabinet will then make a decision on the Cabinet Member's response report.

4.0 Follow Up

- 4.1 The Committee will be entitled to schedule a follow up on progress with the implementation of the action plan agreed by Cabinet and impact of the scrutiny review. Usually a progress report will be requested from the relevant Cabinet Member within 6-12 months after the action plan has been agreed by Cabinet.

5.0 Equality and Engagement Implications

- 5.1 The Cabinet Member will need to ensure that implications are considered via application of the corporate Equality Impact Assessment process when considering the response to the recommendations.

6.0 Legal Implications

- 6.1 There are no specific legal implications at this stage. Any potential implications will need to be outlined in the Cabinet response.

7.0 Financial Implications

- 7.1 There are no financial implications to this report. Any potential implications will need to be outlined in the Cabinet response.

- 7.2 It should be assumed that any future spending needs will need to be contained within existing budget provision and have full and due regard to the budget principles set out in 'Sustainable Swansea – Fit for the Future', the likely levels of future budgets and the medium term financial plan.

Background Papers: Scrutiny Programme Committee Evidence Pack - Scrutiny Review of Gypsy Traveller Site Search Process.

[\(<http://swansea.gov.uk/article/23464/Review-of-Gypsy-Traveller-Site-Search-Process-Evidence-Pack>\)](http://swansea.gov.uk/article/23464/Review-of-Gypsy-Traveller-Site-Search-Process-Evidence-Pack)

Appendices: Appendix A – Final Scrutiny Review Report.

SCRUTINY REVIEW: GYPSY TRAVELLER SITE SEARCH PROCESS

FINAL REPORT



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SCRUTINY REVIEW: GYPSY TRAVELLER SITE SEARCH PROCESS

1. Why We Produced This Report

1.1 Overview

1.1.1 This report focuses on the Gypsy Traveller site search process between 2009 and 2013. This process culminated in a meeting of Council on 21 October 2013 which requested that, although the process led to the identification of 2 possible sites, a whole Swansea approach be adopted and all land options within the City & County of Swansea be considered rather than restrict the process to land in the Authority's ownership. On 5 November 2013 Cabinet accepted this approach.

1.1.2 Following a lengthy debate on the site search the view was expressed at Council on 21 October 2013 that a scrutiny review of the process that was followed should be carried out.

1.2 Aim of the Scrutiny Review

1.2.1 The purpose of the scrutiny review was to:

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

1.2.2 The scrutiny review aimed to address the following question:

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

1.2.3 The work was carried out via special meetings of the Scrutiny Programme Committee, and commenced in February 2014.

1.3 Intended Contribution

1.3.1 The Committee recognised that this whole matter has been the subject of enormous debate both within and outside of the Council. It is fair to say that it has been a difficult issue to deal with, with emotions running high in some communities. The committee wanted to ensure that everyone who wanted to have a say on this matter had the opportunity to do so.

1.3.2 The review intended to shed light on the process that was followed, identify the main issues arising, and offer a constructive view about learning points that could help future work.

2 The Evidence Collected

2.1 In summary the evidence gathering activities undertaken by the Committee included:

- Officer Evidence:
 - Overview of Gypsy Traveller Site Search - Chronology of Process, Legal Framework/Guidance, Assurance and Outcomes
 - Criteria for Site Selection / Explanation of Site Sieve Process
 - Consultation Process and Outcomes
 - Impact of Economic Regeneration / Development Plans on Site Selection
 - Role of Housing Needs Assessment
 - Q & A with Chief Executive
- Evidence from former Leaders of the Council:
 - Councillor Chris Holley
 - Councillor David Phillips
- Evidence from former Cabinet Member:
 - Councillor June Burtonshaw
- Evidence from Councillors:
 - Councillor Uta Clay
 - Councillor Penny Matthews
 - Councillor Jennifer Raynor
- Evidence from Public:
 - Tony Beddow
 - Keith Jones
 - Hilary Jenkins
 - Tom Jenkins
 - Phillip Robins
 - Lawrence Bailey

NOTE: A number of key officers who gave evidence at the start of the scrutiny process subsequently left the authority during the course of the scrutiny review which had an impact on evidence gathering. This included Reena Owen (former Corporate Director) and Martin Saville (former Head of Service).

2.2 The Committee also had sight of the numerous documents, including:

- Relevant Welsh Government Guidance
- 31 March 2009 Court Judgement in case between CCS and Christine Joyce (and others)
- Welsh Government Circular 30/2007: Planning for Gypsy and Traveller Caravan Sites
- City & County of Swansea Gypsy Traveller Policy – June 2009
- Relevant Cabinet and Council reports and minutes
- Relevant Gypsy Traveller Site Task & Finish Group reports and minutes

- Minutes of a Gypsy Traveller meeting (chaired by Cllr Nick Bradley) – 7 September 2012
- Internal Review: Report of Head of Housing & Community Regeneration – 29 October 2012 – Independent Management Review of the Processes Used to Identify a Shortlist of Potential Locations for a New Gypsy and Traveller Site
- External Review Report: Geoff White, Head of Planning, Neath Port Talbot CBC - Review of the Site Selection Process for Potential Sites for a Gypsy and Traveller Site within the City and County of Swansea
- Accommodation Needs Assessment 2013

2.3 A lengthy evidence pack is available separately which includes all of the information gathered by the Committee through its meetings. (<http://swansea.gov.uk/article/23464/Review-of-Gypsy-Traveller-Site-Search-Process-Evidence-Pack>)

3. Background to the Process

3.1 Specific demands for additional appropriate accommodation

3.1.1 During the evidence sessions the Committee gathered a great deal of detailed information about the background to the Council's search for additional Gypsy Traveller sites. It was therefore able to trace the events from early 2007 when issues arose that led to the discussions between the former Cabinet Member, John Hague and a senior officer of the authority, and the Gypsy Traveller family occupying the Park and Ride facility at Llansamlet that led to the agreement of 2 May 2007: that in return for two families 'moving to the north east corner of the car park situate in the north west of the park, they would be there for six to nine more months, that toilet and washing facilities, electricity, fencing and hardcore would be provided within that time scale' and that Cllr Hague would see what he could do about obtaining permission for a longer period (*paragraph 4 of the Judgement*).

3.1.2 The Council subsequently sought an eviction order from the High Court to remove the family occupying the Park and Ride site. On 31 March 2009, the High Court granted a possession order for the whole of the Enterprise Park, save for the areas occupied by the two families in May 2007.

3.1.3 The judgement was critical of the fact that information about the May Agreement had not been passed to the Cabinet and therefore 'failure to give due weight to the full terms of the May agreement'. This failure made it inappropriate to grant a possession order in respect of the parts of the Park & Ride site that were occupied by the families. The judgement found that the then Cabinet Member had the apparent authority to make certain commitments to the families.

3.1.4 The judgement also made reference to overcrowding at the official site and lack of adequate site provision elsewhere, which was acknowledged by the authority at the time (*paragraphs 44 & 48 of the Judgement*). In the Committee's view this was not a central issue to this court judgement. There was some debate during the Committee's review about the extent to which the judgement became a trigger for subsequent plans and the process to identify additional provision, rather than to specifically deal with the Park & Ride issue and families. Some committee members felt that there was a failure to make any clear distinction between the way to approach the needs of one specific family and a range of wider issues relating to Gypsy Traveller in Swansea. There was also concern at the potential for reputational damage to the authority if a controversial and complex policy was being pursued on account of considerations that were groundless or at least secondary.

3.2 Policy Drivers for Additional Appropriate Accommodation

3.2.1 To understand the process, the issues around the Park and Ride site have to be placed in the context, and took place against a much broader backdrop of discussions about the provision for Gypsy Traveller families in Swansea. Successive local authorities in the Swansea area have sought to address the need to make appropriate provision for Gypsy Traveller families since the duty to do so was enshrined in the Caravan Sites 1968 Act. This led to protracted discussions during the 1970s and subsequently in the 1980s. Swansea's only civic Gypsy Traveller site was established at Pant-y-blawd, Llansamlet, in 1986. The Committee heard references to the 'West Glamorgan agreement' which committed the local authority to ensure that any additional sites were located in wards other than

Llansamlet, as in the community in question there was a widespread view that such an agreement existed and was binding in 2009-2012. This was compounded by the fact that the 'agreement' was referred to in party political election leaflets in 2012. The Committee would suggest that it would be helpful for any process to be clear about the implications of previous policies / decisions and relevant policy framework.

3.2.2 The Authority also had to respond to longstanding issues arising from illegal encampments, particularly in the Llansamlet ward, and policy drivers such as the requirement on the council to make appropriate provision under the Housing Act, 2004, an imperative that was reinforced by subsequent Welsh Government guidance including Welsh Government Guidance on Managing Unauthorised Camping, 2005, Welsh Government Report: Accommodation Needs of Gypsy and Travellers in Wales, 2006, and Circular 30/2007 Planning for Gypsy and Traveller Caravan Sites. The authority was aware of these requirements when it began to address the issues in 2007-10, and later further impetus was given by the provisions of the Equality Act, 2010. Welsh Government Circular 30/2007 reinforced the message that local authorities in Wales should be making appropriate provision. Gypsy Travellers are a recognised ethnic group. In making provision to meet their needs all public authorities are required to take their views into consideration.

3.2.3 In addition, member and officers of the City and County of Swansea have been consistent about the need to maintain and strengthen positive community relationships with the Gypsy Traveller families.

3.2.4 In June 2009 the City and County of Swansea adopted its Gypsy Traveller policy by which it committed itself to making appropriate provision taking account of determinants that included:

- A needs assessment, carried out in accordance with national guidelines, to establish the number of pitches required and type of accommodation, for example the balance between permanent and transient sites
- The physical appropriateness of any proposed accommodation

- The requirements to engage with the Gypsy Traveller community to ensure that their views were taken into account.

3.2.5 It also committed the council to a 'humane and compassionate response to unauthorised encampments' and that 'there will not be an automatic presumption of immediate eviction in every case'. The sense of urgency that was conveyed in this process was apparent: 'the process has to be rapid given the ongoing issues with unauthorised encampments' (*from Minutes of Special Scrutiny Programme Committee – 3 April 2014*).

3.2.6 Paragraph 3.2.5 of the Gypsy Traveller Policy 2009 describes the need for further permanent Gypsy Traveller site provision and need for research and a project plan to help determine location of any new site. It adds that the Gypsy Traveller Liaison Forum would be consulted on the project plan.

3.2.7 These background issues, including the situation in the Swansea Vale and both the Welsh Government and the Council's commitment to ensuring adequate provision for Gypsy Traveller families, resulted in the process to identify additional Gypsy Traveller accommodation.

4. The Process

In response to these drivers, the authority initiated a process working to a set methodology, which is described in the reports to Cabinet on 11 March and 26 August 2010. This would involve the creation of a Member Task & Finish Group by Cabinet to examine potential sites. The Gypsy Traveller Liaison Forum which was formed in 2007 ceased to meet after November 2010.

4.1 Assessing Need

4.1.1 The Accommodation Needs Assessment (2013) concluded that there was a need for an additional 11 pitches rising to 20 over the following five years (*from Council report – 21 October 2013*). This led officers to conclude that there was a pressing need for a permanent site and that a transient site might also be required (*from Minutes of Special*

Scrutiny Programme Committee – 6 March 2014). However, there does not seem to be any consideration of how best to meet the demand for additional pitches, balancing the arguments for one site of 11 pitches or two sites of 5-6 pitches, or other suitable combination. It was not clear whether there was any consideration given as to whether it would be better for additional provision to be concentrated or dispersed (with a number of small sites) around the City and County of Swansea.

4.1.2 When gathering evidence, the Committee was made aware that the Accommodation Needs Assessment is a 'snapshot' of the situation at a particular time and that although it was undertaken in accordance to Welsh Government guidelines, it was not an exact science. The Committee heard evidence which questioned the basis on which the Needs Assessment was conducted, specifically was it undertaken on the basis of a strategic, formula-led basis, or on the reality of the number of families and their distinct needs (a more operational approach). In addition, there was a view on the part of some witnesses that issues at the existing site and at the Park and Ride had created a demand for an additional site and that this had impacted on the Accommodation Needs Assessment. This was not accepted by the officers responsible who maintained that the methodology used in the Accommodation Needs Assessment was robust.

4.2 Role of Cabinet and the Task and Finish Group

4.2.1 By March 2010 the authority was in a position to begin the work of identifying alternative Gypsy Traveller site provision, relevant to this review. The process was to be overseen by a member-led Task and Finish Group that was to work to set criteria. These criteria were based on those of the Welsh Government and differed slightly from those in the Gypsy Traveller Policy (HC9), though they did not contradict each other.

4.2.2 The summary to the Cabinet report of 11th March 2010 referred to the purpose as '*To investigate the provision of an alternative site to accommodate the Gypsy and Traveller families presently occupying the unauthorised site at Swansea Vale*' but by 26th August 2010 this had been amended significantly to read '*To consider the formation of a*

Member led Task & Finish Group to look at Gypsy Traveller site provision', i.e., much broader terms of reference.

- 4.2.3 What was not clear, however, was the extent to which the considerations of one of these drivers (the need to address the situation in Swansea Vale) influenced people's thinking when addressing the broader policy issues, consciously or otherwise.
- 4.2.4 Even so, it is clear that there was a strong feeling among several witnesses outside the council, that officers had been working to obtain a solution to the issue of the Park and Ride site and that this formed an essential backdrop to the search for additional provision Gypsy Traveller site, consciously or otherwise, although officers insisted that they had acted strictly within the criteria set for them, an issue which is discussed below
- 4.2.5 In setting the terms of reference for the Task and Finish Group in August 2010, Cabinet considered two options:

Option 1

- a) Review and update (if necessary) the original criteria based National Guidance and current planning policy*
- b) Review a list of all council-owned and including council-owned land allocated for housing*
- c) Assess the sites against the criteria and rank those sites in order of those best meeting the criteria*
- d) Produce a working list of no more than 10 sites for more detailed assessment*
- e) Complete the detailed assessment and produce an options report*
- f) Task and Finish group to complete this work within 6 months*

Option 2

- a) Complete a review of all council owned land and council land allocated for housing*
- b) Produce a report setting out options.*

The Committee noted that the search was restricted to council owned land as such sites were thought to be more easily deliverable within a relatively short timeframe. The Committee also heard that no interest from other land owners was forthcoming as part of the UDP process (which referred to a need for a Gypsy Traveller site).

4.2.6 It resolved to undertake the less prescriptive of the two options (Option 2), to consult the Gypsy Traveller community on the outcomes and to produce a report setting out the options for moving forward.

4.2.7 It is not clear why Cabinet felt it was necessary to make that change, but it did remove the responsibility for choosing a preferred site from the Task and Finish Group, and in doing so Cabinet increased the opportunity for the Gypsy Traveller community to be consulted.

4.2.8 However, work that became a priority because of a specific issue at the Park and Ride site turned into a much wider undertaking to address the council's responsibility to make appropriate provision for Gypsy Traveller families.

4.2.9 A number of those who gave evidence to the Committee doubted whether the terms of reference given to the Task and Finish Group contained sufficient detail. In addition, some questioned the legality of the use of Task and Finish Groups, maintaining that there was no provision for these structures. It is clear that Cabinet wished to delegate the work to a body of elected members, on the basis that it could do so (as it was the ultimate decision-making body in the matter), and that there was a need for the process to be led by members rather than officers. The Task and Finish Group met on a monthly basis from November 2010 to August 2011 and thereafter met on four occasions in 2012.

4.2.10 The Committee heard evidence from a number of Cabinet Members, including those who had held posts in 2012-14 and during the tenure of the previous administration (2004-12). These included the Leader of the Council (2004-12), the Leader of the Council 2012-14, and the Cabinet Member for Place (2012-14).

4.2.11 Key questions that were put focused on the extent to which the process had been overseen by elected members with executive responsibility and whether their involvement was appropriate. The issues raised included:

- To what extent should elected members with executive responsibility be involved in the process and to what extent should it be left to officers working to agreed criteria and protocols?
- Who had overall responsibility for overseeing the process when a Cabinet Member was unable to take responsibility because one of the sites was in her ward?

4.2.12 It became clear that a combination of factors affected the extent to which Cabinet Members were involved in the work, including a) the fact that the Cabinet Member for Place in 2012-14 had quite rightly declared her interest in the matter because one of the sites under consideration was in her ward and was therefore not in a position to oversee the process and b) the view of both previous Leaders that they were determined to avoid undue political influence on the process. As a consequence, notably since 2012, there has been no identifiable political responsibility in this process. The Committee was made aware of confusion and different perceptions about the role of certain Cabinet Members and leadership. Members recalled that Councillor David Phillips had described the process as 'deeply flawed' but this was not an aspect of the issue that he highlighted in evidence to the committee. It is also unfortunate that former Councillor Nick Bradley (who served on the Cabinet and acted as Chair of the 2nd Task & Finish Group) did not contribute evidence to this review, despite a number of requests.

4.2.13 The Committee felt that there must be clarity about leadership, and the respective roles and responsibilities of those involved in any future search process and relationship, whether member or officer led. This is vital for future accountability, and it is very important that there is transparency about who does what and clear terms of reference so that the purpose of any work is understood.

4.2.14 Furthermore the Committee heard concerns from members involved in the Task & Finish Group about their role in the process and their

inability to discuss their work with others. The Committee's view is that there must be clarity about the establishment and status of future Member Task & Finish Groups, and their appropriateness to assist executive decision-making. It should be clear from the outset whether such method of working is confidential or otherwise, and implications for participating councillors in relation to interests and conduct. Failure to do this puts the authority at risk of reputational damage due to a lack of public trust in policy making and the political process.

4.3 The Site Selection Process

4.3.1 An extensive sifting process was undertaken by officers that reduced the potential sites from over 1006 to 19. The evidence offers clear criteria to explain how a list of 19 sites was arrived at. It was less clear how these were reduced to five sites and how the eventual two sites were recommended. The evidence of Emyr Jones (*from Minutes of Gypsy Traveller Site Task and Finish Group – 8 March 2012*) stated 'these sites had been further refined utilising a stringent filtering mechanism based on relevant Welsh Government guidance which resulted in five realistic options being presented'.

4.3.2 The Committee heard evidence which questioned the way the sites had been selected, including specific statements questioning whether the expansion of the existing site could not be considered and there was some concern about the application of the site selection criteria. The Committee also heard detailed criticism of the criteria and arguments why certain sites, notably the Llansamlet option, were unsound. It was also noted that there was ambiguity over the exact location of the site being considered at Llansamlet and some witnesses maintained that there were two distinct areas of land included in that option. The committee noted a strong opinion in the Llansamlet area that the process was geared towards locating a second site in the Llansamlet area, and some committee members felt unable to refute such a view in light of their experience and some of the views heard.

4.3.3 The officer responsible reiterated that they had worked to the same criteria when judging all sites and had applied them consistently throughout.

- 4.3.4 The Committee was provided with evidence of the discussion between members of the Task and Finish Group and Council officers over members' decision to reject two options, an issue which was linked to the discussion over whether site visits should be undertaken to five sites and evidence was given that suggested that the Task and Finish Group had recommended additional sites but that these did not proceed.
- 4.3.5 According to what was reported to the Committee, the advice of the relevant Director at the time was that the criteria for including the five sites were sound but that the reasons for rejecting two of the options were not sound. Consequently, all five sites were proceeded with, reiterating the need for clarity about how much authority a Task and Finish Group had.
- 4.3.6 The Committee also heard that the members of the Task and Finish Group appointed after the May 2012 election were not informed that the previous Group had wanted to reject two of the five sites. The Committee also could not understand why the Task & Finish Group did not produce a specific report on its work and conclusions of its review of land and setting out options, in accordance with their Terms of Reference as agreed by Cabinet in August 2010. Some committee members had reservations about whether the Task & Finish Group was 'member-led'.
- 4.3.7 It is not clear whether the Task and Finish Group had the authority to reject, restore or add sites for consideration nor was it clear who should be the arbiter of what constituted a sound decision. This reinforces the message that the terms of reference of any member or indeed officer-led group need to be clear, conveyed without ambiguity, and understood by all parties from the outset.

4.4 Consultation with Gypsy Traveller Community

- 4.4.1 As was noted previously, there was a commitment to ensure that the Gypsy Traveller community would be consulted. This was an essential requirement of the Welsh Government's guidance and was enshrined

in the authority's own policy. The City and County of Swansea has an established Gypsy Traveller Liaison Forum which is responsible for discussing council-related issues with representatives of the Gypsy Traveller community. In addition, ad-hoc officer-led discussion also takes place as and when required to ensure that the authority responds appropriately to specific issues (education needs, public health, etc).

4.4.2 Documents headed 'City and County of Swansea Gypsy Traveller Meeting' indicated that a meeting was held with representatives of three main Gypsy Traveller families on the morning of Friday 7th September. Councillor Nick Bradley (chair of the Task & Finish Group) and Councillor Jennifer Raynor (a member of the Task & Finish Group) were present at this meeting along with a number of officers. At this meeting there was discussion with the families on the five sites which had been presented to the Task and Finish Group the previous April and their views. During those discussions it became clear:

- That certain sites were preferred to others
- That the nature of the use of one of the sites (at Gorseinon) meant it was not acceptable to the Gypsy Traveller community
- That certain families were prepared to share a site with other families but not with other families or occupants of a Transient Site
- That the needs assessment may have underestimated the total demand for Gypsy Traveller accommodation.

The status of this meeting is unclear to the Committee (it was not a meeting of the Task & Finish Group), nor was it clear to what extent feedback from this 'consultation' was shared with / discussed by the Task & Finish Group or considered in the assessment process at that time.

4.4.3 While the authority stated that it endeavoured to gather the views of the Gypsy Traveller community as a whole, using surveys and convening meetings with families, it was only able to obtain the views of those who took part in the process, essentially three main families, all of whom occupied pitches within the boundaries of the Llansamlet ward, either at the official site or at the 'tolerated' site. The views of Gypsy Travellers occupying sites elsewhere in Swansea do not appear to

have been obtained. It might also be worth noting that the views of Travelling Showmen on potential new sites were not gathered.

- 4.4.4 There are limits to which it is reasonable for any organisation to take a stakeholder consultation (and officers sought to make the process as inclusive and extensive as possible). Therefore it is clear that it is extremely difficult to ensure that the views of all members of the Gypsy Traveller and other Traveller groups are heard.
- 4.4.5 Although the Committee heard that views would only be weighed up at the point of decision by Cabinet, having reviewed the process the Committee felt that the appropriateness of sites for Gypsy Traveller families should have been considered more significantly, particularly given the time and resources the whole process has taken. In particular it was seen as unfortunate that two of the five sites eventually were regarded as inappropriate and unacceptable by the Gypsy Traveller families. With hindsight such a difficulty could have been anticipated at the start of the process had the views of the consultees been obtained. The effective reduction of a shortlist of five to one of three at the end of the process was felt by the committee to have impacted on public confidence in the process.
- 4.4.6 The Committee suggests that Gypsy Traveller families should be involved at the earliest stage rather than at the end of shortlisting. In addition, the status of any meeting with the Gypsy Traveller community must be clear within the overall process. The Committee heard that the authority would not necessarily be considered to have fulfilled its obligations in respect of additional provision if it chose a site which the Gypsy Traveller community found unacceptable. Therefore this is a fundamental issue. Some members felt strongly about the need for clarity about the weighting that should be given to their views, given the legal advice.
- 4.4.7 The Committee also heard evidence about the wider public consultation process and noted criticism of the purpose of consulting on a general basis when a shortlist of 5 sites was known. Although the Committee acknowledged the public consultation process elicited over 3000 comments there was also concern about the way these were

responded to e.g. points dismissed or not answered at all. The Committee was also disappointed that those submitting a response did not receive an acknowledgement.

5. The Importance of Community Cohesion

- 5.1 As was noted, both members and officers of the City and County of Swansea have emphasised the importance of positive community relationships with the Gypsy Traveller families. This was referred to in the evidence gathering sessions and also when full Council considered the matter in October 2013. It is important that the authority does everything in its power to maintain positive relationships and ensure community cohesion as it moves forward. The Committee felt that more work needed to be done to ensure community awareness and understanding to counter any discrimination.

6. Independent Scrutiny and Assurance

- 6.1 The Committee heard that in order to provide assurance with regard to the process an internal independent management review, and an external professional review was undertaken, prior to the consultation exercise. These reviews examined the criteria set, their links to regulations / policy, and the application of the criteria at each stage.
- 6.2 These reviews concluded that the process followed had been robust and completed in accordance with the criteria agreed by Cabinet. It was stated that 'professional judgement' had been used in narrowing the list to five options, although the exact meaning of this statement was not elaborated.
- 6.3 The Committee also noted that in order to ensure transparency and offer further assurance all of the information available was considered by a Senior Officer Panel in September 2013 who examined the pros and cons for each of the shortlisted sites in depth. The Panel was made up of officers across all major service areas including officers with no prior involvement in the issue.

- 6.4 The committee also heard that during the course of the process Counsel's advice was taken on a number of occasions, most notably prior to the Council meeting in October 2013. It was reported to the committee that this advice confirmed that the Council had acted rationally and lawfully throughout, and that the process was not flawed.
- 6.5 Some committee members questioned the assurance and advice sought and received given the various concerns which have emerged during evidence gathering.

7. Was this a Robust Process?

- 7.1 It is clear that set technical criteria were used against which the merits of individual sites were considered. These related primarily to physical attributes (proximity to other settlements, infrastructure, potential land use etc). However, the authority is committed to ensuring that the view of the Gypsy Traveller community is heard and recognised when making provision. This is both as a matter of principle (recognising the need to be inclusive) and a matter of practice (the authority cannot be put in a position where it provides accommodation that is not going to be used). Put simply, a site that had clear benefits from a physical standpoint might well be rejected because it was not acceptable to the Gypsy Traveller community.
- 7.2 There was, however, no evident formula or weighting that had been applied to balance the physical considerations with those of the views of the Gypsy Traveller community. The Chief Executive, in his evidence, insisted that a final analysis of where to locate additional accommodation was not an exact science, and his views were echoed by other officers, at senior strategic and operational level. This was challenged, notably in Professor Tony Beddow's evidence.
- 7.3 The Committee is not in a position to make a judgement about whether a formula or algorithm could be used and does not propose to take further expert opinion on their use in the formulation of public policy, but notes that they were not used in the consultation used as part of this process.

- 7.4 A similar issue regarding the inexactitudes of the process was heard in relation to the Accommodation Needs Assessment where again a certain amount of judgement was exercised and senior officers reiterated that this again was not an exact science.
- 7.5 Consequently, the exercise became a matter which can be described in terms of taking a balance of the evidence, attempting to marry place (the physical aspect) with people (future demand and the views of the Gypsy Traveller community about where provision should be located). This balance was an aspect of the process that could not be measured objectively. Officers, particularly those at the operational level, sought to make the process as robust and unbiased as possible in the interests of fairness, but this was undermined by the fact that a great deal of judgment had to be exercised in relation to the 'people' aspect.
- 7.6 Until there is a clear understanding of the balance of the issue of 'place' with that of 'people' it is unlikely that the process can be said to be completely scientific and robust. Furthermore, there are serious questions about whether it is realistic for any process to be able to meet both requirements. Ultimately the resolution of this whole matter comes down to a judgement by Cabinet, balancing all the information and potentially conflicting views, and decision, and adherence to the established planning process. Of course the site search process that we reviewed never reached this point.
- 7.7 The Committee acknowledges that the authority has found this a difficult, and emotive, issue to deal with and the process has drawn criticism from councillors and members of the public. The issue has caused a lot of tension and ill-feeling and has likely damaged the reputation of the authority. The Committee found that the authority followed through on the process agreed in 2010 but opinions about whether that process was the best process have been expressed. An illegal but tolerated site still exists in Llansamlet and that will continue to be the case until there is a plan to deal with this whole issue.

8. Summary of Learning Points / Recommendations

The Committee hopes that those determining future work consider the learning points which follow, to help bring about a positive resolution to this long standing issue.

It is recommended to Cabinet that:

- 8.1 The process must be clear about the implications of previous policies / decisions and relevant policy framework.
- 8.2 There must be clarity about leadership, and the respective roles and responsibilities of those involved in any future search process and relationship, whether member or officer led. This is vital for future accountability, and it is very important that there is transparency about who does what and clear terms of reference so that the purpose of any work is understood.
- 8.3 There must be clarity about the establishment and status of future Member Task & Finish Groups, and their appropriateness to assist executive decision-making. The terms of reference of any member (or indeed officer-led group) need to be clear, conveyed without ambiguity, and understood by all parties from the outset. It should be clear from the outset whether such method of working is confidential or otherwise, and implications for participating councillors in relation to interests and conduct.
- 8.4 Gypsy Traveller families should be involved, and views considered more significantly, at the earliest stage rather than at the end of shortlisting. In addition, the status of any meeting with the Gypsy Traveller community must be clear within the overall process.
- 8.5 It is important that the authority does everything in its power to maintain positive relationships and ensure community cohesion as it moves forward. More work needed to be done to ensure awareness and understanding to counter any discrimination.

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