

## CITY AND COUNTY OF SWANSEA

### NOTICE OF MEETING

You are invited to attend a Special Meeting of the

### SCRUTINY PROGRAMME COMMITTEE

**At:** Committee Room 3, Civic Centre, Swansea  
**On:** Thursday, 4 February 2016  
**Time:** 5.15 pm

### AGENDA

Page No.

Summary: This is the agenda pack for a special meeting of the Scrutiny Programme Committee taking place on the 4 February 2015. The main item is the Gypsy and Traveller Site Search Process. Background reports are included.

- 1 **Apologies for Absence.**
- 2 **Disclosures of Personal & Prejudicial Interest.**
- 3 **Prohibition of Whipped Votes and Declaration of Party Whips.**
- 4 **Minutes.** 1 - 12  
To approve as a correct record the minutes of the meeting held on 9 July 2015.
- 5 **Scrutiny of Gypsy Traveller Site Search Process - Final Report.** 13 - 36

Contact the Scrutiny Team if you would like to attend.

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**Patrick Arran**  
**Head of Legal and Democratic Services**  
**Friday, 29 January 2016**

**Cyswllt: Democratic Services - Tel: (01792) 636923**

## SCRUTINY PROGRAMME COMMITTEE (16)

### Labour Councillors: 11

Uta Clay	T J Hennegan
A M Cook	D J Lewis
D W Cole	G Owens
S E Crouch	R V Smith ( <b>Vice Chair</b> )
J P Curtice	G J Tanner
N J Davies	

### Liberal Democrat Councillors: 3

M H Jones ( <b>Chair</b> )	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:

<b>Name</b>	<b>Term of Office</b>
David Anderson-Thomas	14.03.2014 – 13.03.2017
Vacancy	
C A Holley	Convener (Service Improvement & Finance Performance Panel)
P Hood-Williams	Convener (Child & Family Services Performance Panel)
F M Gordon	Convener (Schools Performance Panel)

### 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	
Wendy Parkin	Legal
Archives	

### Email:

Executive Board
Cabinet Members
Leaders of Opposition Groups
Carl Billingsley
Chair of Standards Committee
Chair of Audit Committee
Chair of Democratic Services Committee

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## CITY AND COUNTY OF SWANSEA

### MINUTES OF THE SPECIAL SCRUTINY PROGRAMME COMMITTEE

HELD AT COMMITTEE ROOM 3A, GUILDHALL, SWANSEA ON  
THURSDAY, 9 JULY 2015 AT 5.00 PM

**PRESENT:** Councillor R V Smith (Vice-Chair) Presided

<b>Councillor(s)</b>	<b>Councillor(s)</b>	<b>Councillor(s)</b>
R A Clay	A M Cook	E W Fitzgerald
A C S Colburn	J P Curtice	T J Hennegan
D W Cole	N J Davies	P M Meara

**Coopted Member:**

D Anderson-Thomas

**Also Present:** Councillor David Phillips

**Officers:**

B Madahar - Scrutiny Co-ordinator  
D Smith - Directorate Lawyer

204 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillor G J Tanner and Mrs Sarah Joiner.

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

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

Councillor R A Clay – personal – Minute no. 208 – Ward Member for Llansamlet

Councillor D W Cole - personal – Minute no. 208 – Member of a Ward that abuts two of the original shortlisted sites.

Councillor A M Cook - personal – Minute no. 208 – Ward Member for Cockett.

Councillor J P Curtice - personal – Minute no. 208 – Member of a Ward which borders two of the five previously shortlisted sites.

Councillor T J Hennegan - personal – Minute no. 208 – Ward Member for Penderry which abuts one of the five previously shortlisted sites.

206 **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.

207 **MINUTES.**

**RESOLVED** that the minutes of the Special Scrutiny Programme Committee held on 2 April, 2015, be agreed as a correct record.

208 **EVIDENCE SESSION: SCRUTINY OF GYPSY & TRAVELLER SITE SEARCH PROCESS.**

The Chair introduced the eleventh evidence session of this review and welcomed Councillor David Phillips to the meeting. The committee wished to hear from Councillor Phillips, who was Leader of the Council between May 2102 and September 2013 in order to:

- explore aspects of the site search / selection process
- better understand his role in the process and events between May 2012 and November 2013
- invite reflection on the process and learning points

Councillor Phillips was invited to make any opening remarks ahead of questions from the committee.

The committee proceeded to go through the questions that had been submitted to Councillor Phillips in advance, and then, following his response, took the opportunity to ask supplementary questions.

Questions:

**1. What were your responsibilities from May 2012 as Leader of the Council in respect of Gypsy & Traveller Site Provision, and what was your role in the process?**

Response provided:

This was an on-going legal process, properly set up by Council, for which there was an expectation that the process (the cross-party Task & Finish Group) would run its course. The terms of reference, roles and responsibilities of the Task & Finish Group were set by Council. Other than the generic overall responsibilities of a Council Leader, I had no specific role or responsibilities in the process. Even if I had, they would have been alongside the rest of my Cabinet colleagues and the Strategic Director.

Supplementary:

In response to a supplementary question Councillor Phillips stated that the process was ongoing and it was not his role to interfere or decide to alter things in May 2012. He maintained that the process was bound by Council and the administration was obliged to re-form the Task & Finish Group, unless

there was a valid professional reason to do anything different. Councillor Phillips was challenged on the decision-making history, that is, that process was carried out under the executive, and therefore could have chosen to review and change things.

**2. How was the Cabinet / new administration briefed after the May 2012 elections to ensure awareness of progress and current position?**

Response provided:

These would be in the public record.

Supplementary:

Councillors Phillips was asked about private meetings where briefings may have been delivered, and the inference was that there were no such private briefings.

**3. What were the role / responsibilities of other Cabinet Members in the process? At some point during the process Cllr Burtonshaw declared an interest and ceased to be the responsible cabinet member - who provided the political leadership of the process after that point?**

Response provided:

I think you/the Committee misunderstand. This was a process, the parameters of which were set in 2010 by the then coalition that was leading the Council. Members decide/officers enact. And as you will understand, that means there has to be a process to deliver that decision.

Such a process runs itself and has to be allowed to complete its job. It wasn't a matter of political leadership. Indeed, it would have been entirely wrong for there to have been any sort of political interference. The process had to be, and seen to be, robust, unchallengeable, transparent and fair. Any suggestion that there should be any sort of interference for party political advantage would have been entirely improper and immoral.

Some do think this was and should have considered as a political issue. However, I was determined that this would not be the case, that under my leadership there would be no suggestion that I or my colleagues had interfered to rig the outcome. As I say, that would have been improper and immoral.

Because some councillors chose to make this a political issue did not mean that the Council should follow suit. I repeat, this had to be seen to be robust, unchallengeable, transparent and fair.

Nonetheless, to ensure that this hadn't happened prior to my becoming Council Leader, via Cllr Bradley, I did ask the Task & Finish Group to consider whether the process had been subject to political and officer bias. However, I want to make it absolutely clear that I did not do this because I thought it had happened, I did not think that. Not least because I considered that had there been any attempt to do so, Mrs Reena Owen, the Strategic Director would have prevented it as would Martin Saville the Chief Officer. I merely wanted to rule it out. I was assured that the conclusions were in line with the criteria set.

That said I and my Group are on record between from 2004 onwards pressing the then administration to make progress.

Supplementary:

In response to a further question about political responsibility and the difference in views about leadership to that of the Chief Executive, Councillor Phillips stated that the process was in charge of itself, having been set up by Council, and had to be allowed to reach conclusion. Therefore the Task & Finish Group had to continue where things had been left off. There was no reason to deviate from the agreed process.

- 4. What were respective roles and responsibilities between the cabinet, the member task and finish group, and officers and inter-relationship? Did your involvement in the process include regular meetings with officers?**

Response provided:

As I said earlier the terms of reference, roles and responsibilities are all in the public record. I can assure you that the relationships between officers and members were entirely proper

I wasn't involved in the process.

- 5. Did any review of the process take place under the new administration between May and July 2012 – before it was agreed to re-establish a member task and finish group and continue where things were left off?**

Response provided:

This seems to refer back again to political interference.

There was no reason to have a review. Why would there be? The Task & Finish Group had not finished its work and so was reconvened in July 2012 to – as the question asks – pick up where things were left off. There was every reason to seek an early resolution of the matter and not allow it to continue to drag on.

6. **As Leader, what was your awareness / understanding of the “West Glamorgan agreement” and what implication did this have on the process?**

Response provided:

I was advised by Cllr Penny Matthews of something she had discovered in the West Glamorgan Archives, which came to be called the ‘West Glamorgan Agreement’. However, she only verbally reported that the West Glamorgan County Council had decided that there would not be another Gypsy & Traveller site in the Llansamlet ward. However, Cllr Matthews would not show me the actual documents she had found, but I had no reason to doubt her.

I made several requests to see the documents and finally, after the election, I insisted on seeing the documents and Cllr Matthews provided me with copies. I have not seen these for some time – and my copies are in storage – so I am relying on my memory.

Unfortunately, the documents clearly showed that there was no agreement. The documents are letters from the County Council to the City Council and minutes of the Finance & General Purposes Committee. The council, was subject to a High Court decision against it (very similar to the one against the current council now – namely that they could not gain possession because of lack of reasonable alternative provision). I recall that amongst the sites being considered two were in the then Llansamlet ward.

The documents record that the local members expressed the view that the people of the Llansamlet ward would accept one site, but which I recall was linked to the number of sites actually to be provided in the Swansea area (WG were I believe looking for 6 sites!)

Categorically however, the members’ views that only one site would ever be provided in Llansamlet was not recorded as a decision, it was not **“RESOLVED”**. The words ‘West Glamorgan Agreement’ do not appear. The Minutes of the meeting at which these Minutes were accepted as a correct record do not show any amendment to them incorporating and confirming the so-called ‘West Glamorgan Agreement’ or the principles of its terms.

I had to conclude that Cllr Matthews was mistaken. The local members had certainly clearly expressed what they said were the views of the Llansamlet people (and that would be something that along with other representation would have to be considered), but there was no formal decision/resolution imposing a condition and the members never asked for one. There **was no** resolution of West Glamorgan County Council that could be construed as an Agreement.

This was subsequently confirmed by legal Counsel, who went on to say that even if there had been an Agreement this would not be valid after the passage of time - 25/30 years – and that, additionally, the council could not 'fetter' itself.

Supplementary:

There was a question about references that have made in recent years to a 'West Glamorgan Agreement' for example in an election leaflet in 2012. Councillor Phillips clarified that the leaflet talked about the principles behind the 'agreement' and never claimed that there had been a formal decision. There was some further discussion about what was 'agreed' by members at the time in 1986, whether recorded as a decision or not; and what it implied which has subsequently led many people to believe that there was a deal made in respect of Llansamlet Ward – irrespective of whether any of this was legally binding. Councillor Phillips maintained that the description of an 'agreement' is misleading and that the actual decision made by the County Council is clear.

**7. What is your understanding of the role and purpose of the 2 Member Task & Finish Groups (pre-May 2012 and post-May 2012)? How did they differ?*(any comment on the relatively short period between the 2012 local elections and the 'conclusion' of the 2<sup>nd</sup> Task & Finish Group?)***

Response provided:

As I said earlier this is in the public record. I have no comment on the part in italics, beyond repeating that I was anxious that Council got on with concluding the matter that had dragged on for very many years – being constantly & consistently kicked into the long grass.

This seems an appropriate point to remind Committee (or inform them if they didn't know already) that I required the recommendations of the Task & Finish Group and the process from which they derived to be subject to two peer reviews, again to ensure against the allegation of officer or member bias and that the process had been carried out fairly and the recommendations arrived at were robust transparent and fair.

The first peer review was carried out by another sufficiently senior officer of this authority, but from a different department and unconnected to the Gypsy & Traveller site process, and the second by an officer from another authority. Both these reviews found the process to be robust and the criteria to have been properly determined and fairly applied.



8. **Why was there no specific report 'setting out options' to Cabinet from the Task & Finish Group in accordance with cabinet decision on 5 July 2012, having spent almost 2 years on the short listing process. A report to Cabinet on 1 November 2012 only makes brief reference to the work of the Task & Finish Group. (was it left to officers?; there had been some issues regarding the exclusion of 2 sites by the Task & Finish Group prior to the 2012 election – were you made aware of this at the time, or subsequently after the 2012 election?)**

Response provided:

The reconvened Task & Finish Group of the 5 July had only been in existence for 4 months (not excessive). The two years referred to is the period before the election. There was a report to Cabinet on the 1<sup>st</sup> November 2012, which was the culmination of the work of the Task & Finish Group since its inception under the previous administration.

I do not understand the import of that part of the question about only making a brief reference to the Task & Finish Group. As it was a report of that Task & Finish Groups work, it would seem tautological to keep referring to it. As a matter of course, reports are written by officers. What the contribution of members was to its text I do not know and would suggest that you ask them.

I cannot remember when I first knew of the issue regarding the attempted exclusion of two sites – but it was common knowledge within the council and was I believe also reported in the Evening Post.

As I understand it, there was a misunderstanding by some members on the Task & Finish Group about their powers. They could not include or exclude sites other than by use of the council/Cabinet accepted criteria. To do otherwise was to risk being perceived as manipulating the so-called 'shortlist' for capricious political reasons.

I would also confirm my understanding that there was no shortlist – despite the press reports to the contrary. I would like to quote you from a letter to me from Cllr John Hague.

*27 January 2012 – "The situation remains as set out in the written answer to the question at Council. No shortlist has been agreed until Cabinet has considered the report back from the task and finish group."*

Given this it is somewhat surprising that Cllr Hague, who was on the first Task & Finish Group, was one of those who seemed to misunderstand powers.

Supplementary:

Councillor Phillips was asked about the conclusions of the Task and Finish Group. The committee highlighted the difference of opinion about this matter between Councillor Phillips and the Chief Executive, who acknowledged that there was no specific report from the Task & Finish Group to Cabinet on 1

November 2012. Councillor Phillip reiterated that a shortlist would only formally exist if it has been agreed and confirmed as such by Cabinet, irrespective of any information being gained by and printed in the local press. Councillor Phillips was asked whether he was aware of a 'dispute' between members of the Task & Finish Group and officers prior to the 2012 council election around excluding certain sites from the 'shortlist' of 5 that became known. This was ahead of a site visit that was to be held in April 2012. Councillor Phillips confirmed that he was not aware of any specific discussions but was aware that councillors sought to remove certain options from any shortlist and that the Corporate Director (Reena Owen) was clear that this couldn't happen as it would not be in accordance with agreed shortlisting criteria.

There was some discussion about members not being able to discuss / share information with the public. Councillor Phillips stated that he was not aware of any 'gagging'.

**9. With regard to community engagement in the process can you confirm what work was carried out to maximise community cohesion, tolerance and avoidance of unnecessary conflict?**

Response provided:

This is a question that should be directed towards the Strategic Director, Phil Roberts and his team.

These are fine principles. However, I would say that Gypsy Traveller families still suffer substantial discrimination and it behoves all of us to do our utmost to put these principles into practise.

I am particularly taken with reference to "the avoidance of unnecessary conflict". It is – to say the least – extremely unfortunate that some Councillors, in particular, chose to align themselves so closely with the Llansamlet against the Second Gypsy Traveller site campaign Group. A Group which by its very nature is promoting the message that "we have enough of these sort of people and we don't want anymore". This LA2GT campaign dramatically raised the temperature of the issue not just in Llansamlet but in other areas in the county and worked against the fine principles described in this question.

As a contrary example, I would refer you to the new Margam site proposed in Neath Port Talbot. There the local member welcomed the provision of extra facilities in his ward and noted the way that the Gypsy & Traveller families were part of the community. The whole matter proceeded without issue.

Sadly the way it has played out and continues to play out in Swansea and through this unreasonably extended scrutiny process, shows that a lot more needs to be done to challenge prejudice and bring communities together.

Supplementary:

Councillor Phillips stressed the need for the council to get on with this and find a solution soon. He argued that this was an issue of housing need but unfortunately some campaigns have been focused on being against the gypsy and traveller community and raised the temperature in Swansea about this ethnic group.

**10. What is your understanding of the outcome of consultations with the Gypsy & Traveller families? Should the views of the families have been taken into account at an earlier stage in the process?**

Response provided:

The question as to whether it should have been done earlier and whether that would have made any difference is not something I can answer - and indeed is something that should have been / be asked of the Gypsy Traveller Families themselves.

Supplementary:

There was a discussion about evidence previously heard that a shortlist was discussed with gypsy and traveller families at a confidential meeting in September 2012. At the time no shortlist had been reported to Cabinet or Executive Board. Councillor Phillips reminded the committee that a shortlist had already appeared in the press and was therefore in the public domain. There was also a discussion about the consultation process and concerns whether there was a clear, focussed and effective consultation strategy. Councillor Phillips agreed that consultation could have been done better and remarked about how councils have traditionally found it difficult to engage the public fully or deal with findings. Members commented in particular whether it was clear what people were being asked, or had enough information.

There was a discussion about the legal obligation to provide a gypsy and traveller site and the Housing Needs Assessment. Councillor Phillips referred to the Local Development Plan process (including a need for site) and High Court ruling regarding possession of unauthorised encampments. The committee recognised the previous discussions that have taken place regarding the purpose of the impact of the 2009 court judgement on the site search process, which moved from dealing with the immediate pressure to the broader context of gypsy and traveller needs. There have been arguments aired at committee about whether it needed to, or which issue remained predominant, given issues amongst certain gypsy and traveller families. Councillor Phillips' view was that the legal judgement meant that the council was unlikely to be granted possession orders and unauthorised encampments had an effect on local businesses therefore the council needed to identify further site provision; and it was morally the right thing to do.

**11. What led you to announce that the final decision in the process would rest with the Council?**

Response provided:

It was my belief that this was where the decision would be taken. I was wrong and I have said so. The decision was one – legally – that had to be taken by Cabinet. But, in any event, my error as to where the decision was taken was irrelevant and had no bearing on the outcome. It was led in part by my view that this was a decision of such widespread public interest (for whatever reason and whether I agreed with those reasons or not) that it would be plain wrong for Council not to be able to express a view. Cabinet only decisions may be more efficient (arguable) but they are not always properly democratic - in the wider sense of that word. Indeed, by definition, how can they be?

My view was, and remains, that the Cabinet (in reaching its decision) should have as one of its matters of consideration, the views of Council. Therefore I sought a means of enabling that to happen. And that was the Council meeting of October, where members of the public and Gypsy Travellers families amongst others were encouraged to give their views on the proposals. This was broadcast live on the web. This would not have happened if I had not made it happen. The approach to the council meeting was consistent with legal advice.

I would also remind you that at the meeting of Cabinet in November I moved the venue from a small committee room into the Council Chamber to allow for greater public attendance and participation, I moved public questions to the front of the agenda and extended the time for this session so that all questions could be asked and answered.

**12. After the council meeting in October 2013 did cabinet at all consider proceeding to planning application stage despite council's view that the search should consider all land options, given various assurances that the process had been sound and the authority has acted rationally and lawfully throughout?**

Response received:

I consider this question to be disingenuous – I believe most of the committee already know the answer. There is only one answer I can give.

The legal position is that Cabinet had to be seen to be considering all options before it. Cabinet members, all of whom had not taken part in the Council meeting, could not arrive at the Cabinet meeting pre-determined. Council had expressed a view, but this was a view that, as I said earlier was one matter that Cabinet had to take into account when arriving at its decision. For the avoidance of doubt, it had been made clear to Cabinet, that it was not bound by the Council view/recommendation and had to consider all matters before it, one of which was proceeding to planning application stage. It was open to

Cabinet to discount the views of Council and the members of the public in arriving at its decision and to do something entirely different.

However, and whilst I cannot speak to what was in the minds of my Cabinet colleagues, given that they had agreed with the special council meeting, it would be perverse for the views of Council not to have been given weight in their thinking and consideration on the matter.

I am not sure that Council has ever been assured that it has acted rationally. I am not sure that the use of this word is anything other than suggestively pejorative. Of course, the authority acted lawfully, it would not have been allowed to proceed if it had not.

Supplementary:

In response to a question about whether Cabinet should have pressed forward with this issue after October 2013 Council in order to not protract things Councillor Phillips stated that it was not within his gift to do so. He referred to the time that this issue has taken overall since before 2004, and maintained that things could not have moved any quicker since May 2012. He stated that there was nothing wrong with the process, it simply was unable to provide a conclusion to the issue. He felt that the work of the Task & Finish Group had to be allowed to reach a conclusion without interference and Cabinet had to consider the view of Council.

- 13. Finally, we would like you to consider your experience generally over the last few years dealing with this matter and invite reflections on the process and any learning points / improvements. Did you consider the process to have been deeply flawed? If so, could you elaborate on the problem(s)? Could this process have been done differently with better outcomes?**

Response provided:

It is quite clear that the council has a duty to provide at least a second site and has failed to do so over a considerable number of years. That is why – like West Glamorgan County Council before it – it is in legal difficulty. The delay is also potentially discriminatory. The provision of a second site is about providing for the proper housing needs of what, I would remind you, are human beings, not a convenient political football. We are talking about people, real families, and we should not be talking over the top of their heads, as if they were not here.

I would remind the committee that the existing site has had no complaints – not one – in its entire history.

Councillors aligning themselves with campaigns that have no meaning other than “No Gypsies” – I am sorry that should of course be “No more Gypsies” - is a shameful disgrace. This was not about preventing a second housing

development, Llansamlet and some of the other wards that objected have many of those that go forward without protest – this was wholly about the people that were to live in them.

And going forward on this issue – which Swansea Council will have to do – and sooner rather than later – it is that sort of callous, disgraceful, discreditable and shameful campaign that should be prevented.

Supplementary:

In response to a further question about whether he has called the process flawed Councillor Phillips stated that he was not prepared to discuss leaked private email correspondence. He added that it was written after he had read the Council report and was entirely to do with the report not the process, and that he had formed no opinion until then.

The Chair thanked Councillor David Phillips for his attendance.

209 **PLAN FOR THE CONCLUSION OF THE REVIEW.**

Having undertaken a range of evidence gathering to consider perspectives on the process the committee was asked to discuss a plan for the conclusion of the review and necessary steps, in order to report findings and possible recommendations.

The committee was provided with a summary of the evidence gathering sessions held to date.

The Chair stated that having completed evidence gathering it was now necessary to set aside time to reflect on the work carried out by the committee in order address the key question, and draw conclusions, identify learning points and make any recommendations. He stated that he would be reviewing the evidence gathered and would share his thoughts with the committee in due course for deliberation.

Arrangements for further special meetings to be advised.

The chair referred to a letter which he had received from Mr. Tony Beddow, who has previously submitted evidence to this review, and stated that it will be considered along with the other evidence collected by the committee.

210 **FOR INFORMATION - GYPSY & TRAVELLING COMMUNITY ACCOMMODATION NEEDS ASSESSMENT 2013.**

Further to earlier evidence session on Housing Needs Assessments the document requested by the committee, including questionnaire used, was provided to the committee. Extracts from this Needs Assessment were included in the 21 October 2013 Council report.

The meeting ended at 6.52 p.m.

**CHAIR**

## Report of the Vice-Chair of the Scrutiny Programme Committee

Special Scrutiny Programme Committee – 4 February 2016

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

<b>Purpose</b>	To present the final report for the scrutiny review into the Gypsy Traveller Site Search Process for agreement.
<b>Content</b>	The final report is attached which concludes the scrutiny review.
<b>Councillors are being asked to</b>	Agree the report for submission to Cabinet.
<b>Lead Councillor and Report Author</b>	Councillor Robert Smith, Vice-Chair of Scrutiny Programme Committee
<b>Lead Officer</b>	Brij Madahar, Scrutiny Coordinator Tel: 01792 637257 E-mail: <a href="mailto:brij.madahar@swansea.gov.uk">brij.madahar@swansea.gov.uk</a>

#### 1. Details

- 1.1 Since February 2014 a series of special meetings of the Scrutiny Programme Committee have been held to review the process adopted to date in the search for further Gypsy Traveller site provision.

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 The final report arising from the Scrutiny Review into the Gypsy Traveller Site Search Process is presented to the Committee for agreement.

The attached report presents the key findings and learning points arising from the review that sought to answer the following question:

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

- 1.3 The report is structured in the following way:

- Why We Produced This Report
  - Overview
  - Aim of the Scrutiny Review
  - Intended Contribution
- The Evidence Collected
- Background to the Process

- Specific Demands for Additional Appropriate Accommodation
- Policy Drivers for Additional Appropriate Accommodation
- The Process
  - Assessing Need
  - Role of Cabinet and the Task & Finish Group
  - The Site Selection Process
  - Consultation with Gypsy Traveller Community
- The Importance of Community Cohesion
- Independent Scrutiny and Assurance
- Was this a robust process?
- Summary of Learning Points
- Acknowledgements
- About the Committee

1.4 The Scrutiny Programme Committee is asked to agree the report for submission to Cabinet for response.

## **2. Legal Implications**

2.1 There are no specific legal implications at this stage.

## **3. Financial Implications**

3.1 There are no financial implications to this report. Any potential implications would need to be outlined in the Cabinet response.

## **4. Equality and Engagement Implications**

4.1 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 report.

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>)

Appendices:

Appendix 1: Final Report - Scrutiny Review: Gypsy Traveller Site Search Process

Legal Officer: *Debbie Smith*

Finance Officer: *Carl Billingsley*

Access to Services: *Sherill Hopkins*



# **SCRUTINY REVIEW: GYPSY TRAVELLER SITE SEARCH PROCESS**

## **FINAL REPORT**

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**SCRUTINY PROGRAMME COMMITTEE**  
**City and County of Swansea - Dinas a Sir Abertawe**

**FEBRUARY 2016**



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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 11<sup>th</sup> 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 26<sup>th</sup> 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 2<sup>nd</sup> 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 7<sup>th</sup> 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. 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.

## **8. Summary of Learning Points**

- 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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- Cllr Jennifer Raynor
- Cllr Chris Holley
- Cllr June Burtonshaw
- Cllr David Phillips
- Tony Beddow
- Keith Jones
- Hilary Jenkins
- Tom Jenkins
- Phillip Robins
- Lawrence Bailey

## **About the Committee**

The following members of the Scrutiny Programme Committee participated in this review:

CLlr Robert Smith (chair)  
CLlr Bob Clay  
CLlr Anthony Colburn  
CLlr David Cole  
CLlr Ann Cook  
CLlr Jan Curtice  
CLlr Nick Davies  
CLlr Wendy Fitzgerald  
CLlr Terry Hennegan  
CLlr Paul Meara  
CLlr Gloria Tanner  
Sarah Joiner (cooptee)  
Dave Anderson-Thomas (cooptee)

The review was supported by Brij Madahar from the Council's Scrutiny Unit.

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