Report of the Cabinet Member for Enterprise, Development and Regeneration

Cabinet 19th November 2015

GYPSY & TRAVELLER SITE PROVISION – LEGISLATIVE CONTEXT

<table>
<thead>
<tr>
<th>Purpose:</th>
<th>To provide an overview of the expectations placed on the Council to deliver appropriate Gypsy &amp; Traveller site provision.</th>
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<tbody>
<tr>
<td>Policy Framework:</td>
<td>None.</td>
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<td>Reason for Decision:</td>
<td>To comply with the existing legislative framework and consider the most appropriate method of identifying Gypsy &amp; Traveller site provision within the County. Confirmation of a proposed approach would enable detailed assessments to commence which will satisfy the requirements of the forthcoming Deposit Local Development Plan.</td>
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<tr>
<td>Consultation:</td>
<td>Legal, Finance and Access to Services.</td>
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<td>Recommendation(s):</td>
<td>It is recommended that:</td>
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<tr>
<td>1)</td>
<td>The requirements of the Local Development Plan legislative framework and the provisions of the Housing (Wales) Act 2014 are noted</td>
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<td>2)</td>
<td>Progress with the ongoing Scrutiny Committee exercise is noted</td>
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<td>3)</td>
<td>Cabinet instruct officers to give effect to its proposal that the option to identify appropriate site provision via the Local Development Plan preparation process is selected and that in doing so the expansion of the existing authorised site at Ty Gwyn Road, Llansamlet is explored further</td>
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<tr>
<td>4)</td>
<td>Officers are instructed to carry out detailed assessments in relation to the site option determined by Cabinet</td>
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Report Author: Emyr Jones  
Finance Officer: Aimee Dyer  
Legal Officer: Patrick Arran  
Access to Services Officer: Phil Couch
1.0 Introduction

1.1 Addressing the accommodation needs of Gypsy & Travellers in Wales is a stated aim of the Welsh Government. The City and County of Swansea has a well established Gypsy & Traveller community and currently has a clear deficiency in available site provision. The most recent Gypsy & Traveller Accommodation Needs Assessment undertaken during 2013 revealed that there was a need for 10 extra pitches within the County. In addition, the Assessment was required to look at maximum ‘potential’ demand for pitches over the next 5 years taking into account that teenage Gypsy & Travellers that will turn 18 in the next 5 years who might want a pitch in order to start their own family unit. This part of the Assessment identified that up to 25 further pitches may be required. However, it must be noted that in reality, not all Gypsy & Travellers who are teenagers living with their parents will want to marry at an early age and start their own family unit and some of those who do may elect to move away from Swansea so defining precise requirements by its sheer nature is ever evolving and changeable. Authorities must now follow the Welsh Governments recently published revised guidance regarding undertaking assessments. The increased level of detail required during the assessment process should ensure that for all Local Authorities, future need provision will be accurately predicted.

1.2 The provision of appropriate housing to suit the needs of all the population is an integral part of the Local Development Plan. Ensuring adequate provision of housing for all residents of the County and considering the needs of all groups is key to delivering the above objective. Under the provisions of the Housing (Wales) Act 2014 all local housing authorities have to undertake Gypsy & Traveller Accommodation Needs Assessments and have a duty to provide sites for Gypsy & Travellers where a need has been identified in those Assessments. Given this requirement, combined with the long established population of Gypsy & Travellers within the County, it is of fundamental importance that the Council, in preparing the Local Development Plan, has considered the needs of the population and the need for any additional site provision over the Plan period (up to 2025). The new Assessment currently underway will take this into account and inform the expected requirements within the Plan and in line with anticipated projections further accommodation will be required.

1.3 The Council has been actively trying to identify appropriate site provision for a number of years. In March 2010, Cabinet resolved to start the search for a new site(s). In order to engage Members on a cross party
basis, a Member led Task & Finish Group was formed to work with a multi-disciplinary group of officers in applying agreed criteria as part of a site sifting process. This work was reported to an Extraordinary Meeting of Council on the 21st October 2013 as part of the consultation process but Members resolved to recommend to Cabinet that the search be extended to privately owned sites. This resolution was then reported to Cabinet on the 5th November 2013 and a decision was made to instruct officers to consider privately owned land. In the intervening period Scrutiny undertook to review the process followed and its outcomes are due to be presented imminently. Given the pressing need to progress with Local Development Plan preparation the conclusions from Scrutiny can be absorbed into the consideration of appropriate site provision as part of this process. The identification of provision via this mechanism can help provide certainty of the proposed way forward to both the local settled and Gypsy & Traveller communities.

2.0 The Rationale to Undertake this Work

2.1 The Council’s Planning Services Section have been informed by both Welsh Government and Planning Inspectorate sources that there is a requirement to identify appropriate Gypsy & Traveller site provision to cater for the immediate defined need within the Deposit Local Development Plan. If the Deposit Local Development Plan were to be published without appropriate Gypsy & Traveller provision the probability is that it would be deemed unsound and would be referred back to the Council to redraft at considerable additional cost. The publication of the Deposit Local Development Plan is overdue and in breach of the Delivery Agreement entered into with the Welsh Government which is in the process of being rewritten. There are more substantial risks to the Council in the event the Local Development Plan is not agreed and these are set out in Paragraph 3.0 below.

2.2 The legislative framework has also evolved since the search for a Gypsy & Traveller site commenced. The Housing (Wales) Act 2014 requires local housing authorities to undertake a Gypsy & Traveller Accommodation Needs Assessment and includes a duty on local housing authorities to provide sites for Gypsy & Travellers where a need has been identified in those assessments. The Act is now in force, having received Royal Assent on 17th September 2014. However, the majority of its provisions still need to be brought into effect by further commencement orders by the Welsh Ministers over the next two years. The Gypsy & Traveller elements of the Act are anticipated to be enforceable from March 2016 whereby where the need for sites has been identified, but not met, Welsh Ministers will have the power to
compel local housing authorities to provide sites for Gypsy & Traveller communities.

2.3 From a Development Plan perspective the delivery of appropriate site provision is based on a number of considerations. The Council’s adopted Unitary Development Plan Policy HC9 (Gypsy and Traveller Caravan Sites) clearly sets out the criteria against which proposals for new Gypsy & Traveller sites must be considered. This policy approach was endorsed by the Planning Inspectorate as part of the Unitary Development Plan examination process and any site selection search sequence/criteria must be consistent with it. The Policy is based on Circular 30/2007 – Planning for Gypsy and Traveller Caravan Sites, which is also the basis of emerging Local Development Plan Policy, and is therefore fit for purpose for determining the suitability of sites for Gypsy & Travellers. The deadline for identifying a potential site, applying for and obtaining planning permission under the provisions of the Unitary Development Plan ends November 2016 upon its scheduled expiry. Any Gypsy & Traveller site identified under the Unitary Development Plan should be future-proofed to cater for additional needs over the Local Development Plan period (up to 2025).

2.4 If Gypsy & Traveller site provision is not going to be delivered through a formal planning application via the Unitary Development Plan, then it will have to be identified at the Local Development Plan Deposit stage which is anticipated to be published during spring 2016. Its appropriateness would then ultimately be considered objectively by an independent Planning Inspector, informed by the evidence presented at public examination. There is no certainty on how the issue would be dealt with by an individual Inspector at Swansea Local Development Plan Examination however the indications are that the Council would not even be allowed to proceed to Examination if a site is not identified.

2.5 Recent communication between the Council, the Welsh Government and the Planning Inspectorate has provided an indication of their respective positions on the matter. Welsh Government representatives in a letter to the Council in response to the Draft Local Development Plan Preferred Strategy in October 2013 specified that the Deposit Local Development Plan should make provision to meet any identified need over the full Plan period and ‘failure to provide sites within the Deposit will pose serious questions regarding soundness’. Subsequently, during communication with the Planning Policy Team in September 2014 and again in May 2015, the Welsh Government reiterated that if there is a need within the administrative area identified as part of the Local Development Plan evidence base, then this should be met, whatever the level. They further
highlighted the fact that site delivery will become a statutory duty through the Housing (Wales) Act 2014 and failure to do so could have serious ramifications for the Plan. Welsh Government representatives presented their concerns directly to Members at Planning Committee on the 9th June, 2015.

2.6 During March, 2015 a delegation from Planning Inspectorate Wales met with planning officers as part of a Local Development Plan advisory visit. The aim of this meeting was to help the Council prepare a sound Plan for submission, rather than to comment on the merits of the Plan or principles underpinning it. The most senior Inspector in Wales (Director for Wales) was in attendance and made it clear that the Deposit Local Development Plan should identify appropriate Gypsy & Traveller site provision i.e. specifically identify a site and not continue to rely on a criteria based policy as included in the current Unitary Development Plan.

2.7 Carl Sargeant the Minister for Housing and Regeneration met with Planning officers and Planning Committee Members on the 9th September 2014. The Leader and the Minister also had an opportunity to discuss the feasibility of providing regional Gypsy & Traveller site provision as part of the anticipated amalgamation of authorities. It was concluded that provided that both City and County of Swansea and Neath Port Talbot Council’s agree then they can look at jointly ensuring adequate Gypsy & Traveller provision long term post reorganisation. Whilst it is acknowledged that adopting such a regional approach may have considerable merits as a long term approach it does not provide the means to deliver appropriate site provision to cater for the immediate, defined need within the timescales and requirements of Local Development Plan delivery and is therefore unlikely to be acceptable for Welsh Government representatives. In addition, given that Neath Port Talbot County Borough Council have already accommodated for their immediate needs in terms of the Local Development Plan (though they are still awaiting the findings of the Local Development Plan Inspectors Report) then they are unlikely to want to revisit the issue in the short/medium term.

3.0 Risks to the Local Development Plan

There are a number of wide ranging Local Development Plan specific risks associated with the non-identification of appropriate Gypsy & Traveller site provision at Deposit stage. These include:

3.1 Further deviation away from the agreed Delivery Agreement;
3.2 It will undermine the soundness of the Local Development Plan and incur substantial costs;

3.3 The Local Development Plan would not be allowed to proceed to Examination;

3.4 Welsh Government may decide to invoke its powers of direction i.e. direct the Council to withdraw its Plan and insist on specific modifications. This would be outside of the Council’s control and would incur significant additional costs in terms of funding e.g. planning consultants may be commissioned to undertake the work;

3.5 If the Council does not have an adopted Development Plan in place then it will lose the ability to control and plan for change and growth. Any potential delay in adopting the Local Development Plan will severely restrict the delivery of proposed new development and regeneration activities and the generation of associated economic benefits established within the Local Development Plan;

3.6 Delay in the production of the Local Development Plan would result in delaying the introduction of the Community Infrastructure Levy a mechanism established as part of the Local Development Plan process to help deliver infrastructure to support the development of the area;

3.7 The Council will not have an up to date basis against which it can assess planning applications and will be in danger of having to allow planning permission for development in locations which would normally be protected. This is particularly true for example, the consideration of rejected, unsuitable Local Development Plan Candidate Site submissions whereby a site proposer would be inclined to present a hostile application in light of the fact that the available housing land bank (whereby the Welsh Government requires local authorities to have at least 5 years worth of development land available) now approximately stands at 3 years. It is critical that by the time of the Local Development Plan Examination that this 5 year requirement is reinstated insofar as once the Deposit Plan is agreed the Council would actively encourage applications on preferred Local Development Plan Candidate Sites in order for the Plan’s Strategy to be considered sound. It is therefore imperative to reach this stage as soon as possible in order to properly deal with hostile applications on sites that the Council does not want to see developed;

3.8 Development may not be supported by proper and planned infrastructure and decisions may be made at Appeal by Planning Inspectors rather than by the Council. An example of this is whereby temporary
permission was granted within the defined green wedge for 4 Gypsy & Traveller pitches together with the formation of additional hardstanding and utility/dayrooms ancillary to that use on Land at Drummau House, Birchgrove. It is clear that should there have been available site provision within the County then the outcome of the Appeal would have been different;

3.9 Welsh Government representatives have commented that the delay/failure to Adopt the Local Development Plan may have a bearing on deciding which Council adopts the primary role in co-ordinating and producing the Strategic Development Plan for the region (as established within the Planning (Wales) Act 2015 which received Royal Assent in July). This would result in other authorities who have reached more advanced Plan preparation stages leading on the work;

3.10 There are instances when the Planning Inspectorate have deemed that the approach adopted by authorities in considering Gypsy & Traveller requirements as being unsound on the basis that they have not complied with the requirements of the Public Sector Equality Duty under Section 149 of the Equality Act, 2010. An example of this is where an Inspector concluded that Maldon District Council within their LDP had produced a housing policy which would have seriously disadvantaged Gypsy & Travellers;

3.11 There could be reputational damage to the Council if the delay results in it becoming the last local planning authority in Wales to adopt a Local Development Plan.

4.0 **Experience of other Local Authorities**

4.1 Local planning authorities across Wales are at varying points of Local Development Plan production. Of the 24 local planning authorities (inclusive of the National Parks and the combination of Gwynedd and the Isle of Anglesey), 16 have Adopted Local Development Plans in place. From a Gypsy & Traveller perspective all have a criteria based policy within their Plans. In terms of site specific provision, 8 have identified sites, 6 have no defined need whilst 1 will deliver immediately via the Local Development Plan Monitoring Framework. Of the remaining 8 local planning authorities with unadopted Plans, 5 have reached Deposit/Examination stage, 4 of which have identified site provision and 1 that will deliver via the Monitoring Framework. With this in mind, the vast majority of local planning authorities have delivered on site provision in line with the outputs from their Gypsy & Traveller Accommodation Needs Assessments.
To proceed to Examination without suitable site provision when there is a clear defined need is a very high risk approach given that there are instances (as in Wrexham County Borough Council’s case) it was one of the key issues that led to their Local Development Plan being deemed unsound by the Planning Inspectorate. Further details can be viewed via:


Within Carmarthenshire County Council’s Local Development Plan Examination Report, the Inspector indicated that she was satisfied that even though a site had not been allocated, sufficient reasoned justification had been provided to demonstrate the measures to be undertaken to ensure provision would be made. She noted that the Council was well aware of its duty under the Housing (Wales) Bill (it has since become the Housing Act) to provide a permanent Gypsy & Traveller site and that the Local Development Plan Monitoring Framework would require a suitable site to be identified by 2016 and provided by 2017. Further details can be viewed via:


If Carmarthenshire fail to deliver a Gypsy & Traveller site by 2017 then the Local Development Plan would need to be partially reviewed at significant additional cost.

Welsh Government and Planning Inspectorate representatives have made it perfectly clear that adopting a similar approach to Carmarthenshire by delivering site provision via the Local Development Plan Monitoring Framework will not be acceptable given that in their instance it was reasonable to expect that identification of a site through the proposed mechanism would coincide with the timeline of the requirements of the Housing (Wales) Act 2014 being enforced. The Council is not in that position given that the provisions of the Act will be in place by the time the Swansea Local Development Plan reaches Examination stage. Furthermore, the Inspector at Carmarthenshire’s Examination deemed that there was sufficient reasoned justification provided to demonstrate the measures to be undertaken to ensure that provision would be made. It would be very difficult for this Council to demonstrate a similar case in light of the fact that a defined need for appropriate site provision has been apparent for a number of years. It is important to note that, in moving forward, the expectations placed on
local authorities are completely different given the formal introduction of the Housing (Wales) Act 2014.

5.0 Site Delivery Mechanisms

The potential outcomes of the various approaches to Gypsy & Traveller site identification and delivery are summarised below and reflected in the attached chart (Appendix 1). The commentary highlights the level of risk associated with each of the respective options defined.

5.1 Option 1: Complete the **Member led Task & Finish Group** work following Scrutiny review, identify and provide a site prior to the end of the Unitary Development Plan period (November 2016).

*Comment:* Given the potential complexity of undertaking this exercise, assuming a new site search sequence were to be followed and the overlap/conflicting timescales with Local Development Plan preparation, the Council would be required to guarantee delivery within this period and obtain the prior agreement of the Welsh Government and Planning Inspectorate to this course of action before the Local Development Plan is placed on Deposit (spring 2016). This is highly unlikely given their comments to date - they have been asked and responded that this is not an acceptable approach. This would be a very high risk strategy that would delay the preparation of the Local Development Plan and incur further costs.

5.2 Option 2: Identify a site via the **Local Development Plan** process.

*Comment:* This would require the identification of a potential site within the Deposit Local Development Plan by spring 2016. The site could potentially be amended as a result of the subsequent consultation process but would need to be confirmed by the time the Plan is formally submitted to the Planning Inspectorate for Examination. The site(s) may not necessarily have been previously considered under the Task & Finish exercise as the assessment process would draw from land in private as well as public ownership. The Planning Inspector will consider the appropriateness of the proposed allocation in the context of the Plan and the site must be capable of meeting needs over the whole Plan period. If the site is deemed inappropriate or inadequate there is a risk that the Plan may be found unsound or there may be a requirement to review the Local Development Plan within two years at considerable additional cost. It is clear that this is the preferred option for both the Welsh Government and the Planning Inspectorate and any deviation away from this would equate to a significant risk to the process. It is a low risk strategy.
provided it does not delay the preparation of the Local Development Plan.

5.3 Option 3: Identify and apply for/obtain planning permission for a site(s) under the provisions of the Unitary Development Plan, or using the Local Development Plan Candidate Site Assessment Methodology.

Comment: A hybrid of the second approach - the site(s) put forward would be identified by officers and tested on their individual merits via the planning application process. The site(s) may not necessarily have been previously considered under the Task & Finish exercise as the assessment process would draw from land in private as well as public ownership. If the application was favourably determined prior to Local Development Plan Examination it would become an existing commitment rather than a proposed Local Development Plan allocation. As such, the site(s) would not need to be considered by the Planning Inspectorate as part of the Local Development Plan examination provided Gypsy & Traveller needs over the Plan period would be met. This course of action could be undertaken independently of the Scrutiny process or be informed by it. It is a medium risk/high pressure strategy that forces a decision to be made within the Local Development Plan preparation timescale.

5.4 Option 4: Not deliver a site via the Unitary Development Plan or Local Development Plan preparation process. Instead a site would need to be identified and delivered no later than 2017 in accordance with the Housing (Wales) Act 2014.

Comment: Given the Council’s failure to deliver a site to date the Welsh Government and Planning Inspectorate have indicated they will not be prepared to set aside consideration of the issue of Gypsy & Travellers through the Local Development Plan Examination on the basis that a site would be delivered under the Housing Act. They consider that the identification of Gypsy & Traveller sites should be delivered through the land use planning policy framework. This approach would be a very high risk strategy likely to lead to the Local Development Plan being delayed and/or found unsound.

5.5 Option 5: Adopt a do nothing approach and await potential changes to local authority boundaries as part of the Williams Commission findings.

Comment: Given the uncertainty surrounding this ongoing review and with the anticipated implementation date of 2019 the adoption of such an approach would blatantly disregard the legislative framework currently in
place. Furthermore, adjoining authorities have either catered for their defined needs within their respective Local Development Plans or are in the process of doing so. This approach would be a very high risk strategy likely to lead to the Local Development Plan being delayed and/or found unsound.

6.0 Potential Way Forward

6.1 In order to be able to proceed within the defined timescales of Local Development Plan production, the most realistic means of achieving suitable site provision would be to identify land based on planning merits and deliverability. Within this context, of all of the options outlined within Section 5.0 of this report indications from Cabinet have been that it considers that only option 2 – delivery via the Local Development Plan and option 3 – applying immediately for planning permission via the Unitary Development Plan are realistic proposals.

6.2 Therefore Cabinet propose that the logical starting point for identifying suitable site provision would be to focus on the potential expansion of existing facilities at the official Gypsy & Traveller site at Ty Gwyn Road, Llansamlet (See Appendix 2). This would provide an opportunity to maximise the existing authorised provision within the County and it is considered that even with the existence of some defined on site constraints a case could be made for such proposals for the reasons outlined below and there would be no requirement to consider further sites at this time.

6.3 The area in question was discounted as part of the Task & Finish Group work on flooding grounds following firm advice issued by Natural Resources Wales. However on planning grounds it is considered the best and most suitable especially as it is a preferred location for Gypsy & Traveller families, which is an important material consideration. Furthermore, feedback to officers from Members has been that a proposal to expand the existing site would be likely to receive political support.

6.4 It is important to note that the potential inclusion of the site within the Deposit Local Development Plan is not risk free and the issues to be considered are outlined within the following Section. Nevertheless, it is considered that there is considerable merit in pinpointing this site for further assessments to be undertaken and if deemed appropriate to be identified within the Plan.
7.0 Initial Key Considerations of Adopting such an Approach

7.1 Paragraph 11.22 of Technical Advice Note 15: Development and Flood Risk states that ‘caravan, camping and other temporary occupancy sites give rise to special problems in relation to flooding.’ Sites positioned within Flood Zone C would be considered highly vulnerable from a flood risk perspective (See Section 5.1 of Technical Advice Note 15) and allocations should only be made within such areas if it can be justified that a development has to be located there in accordance with Section 6 of Technical Advice Note 15. Site promoters will need to fully explain and justify allocating a site in Flood Zone C and undertake a broad level assessment of the consequences of flooding occurring at the site in order to determine whether the consequences of locating a development in a location could be acceptable. The land at Ty Gwyn Road is positioned within Flood Zone C1 (See Appendix 3) and defences have recently been upgraded in a £7 million Natural Resources Wales flood alleviation scheme.

7.2 Inevitably Natural Resources Wales who have previously objected to expansion of the Ty Gwyn Road site would maintain their objection despite the completion of the adjoining flood alleviation works on the basis that the site remains within Flood Zone C1 and that flood events in excess of the standard of protection afforded by the scheme will overtop the defences and with the resultant risk of sudden failure this still leaves an unacceptable residual risk to the area.

7.3 The Council’s case would be based on the fact that the site does not conflict with the provisions of Technical Advice Note 15 (Paragraph 6.2) given that such a proposal can be considered in Flood Zone C1 if determined by the local planning authority to be justified in that location. The justification test centres on whether the site is located on previously developed land (as is the case in this instance) and the consequences of flooding have been assessed and found to be acceptable via a Flood Consequences Assessment.

7.4 In adopting this approach the Council would have in effect delivered on its requirement to identify provision within the Deposit Plan and it would be for officers to argue the case at Examination. It is important to note that there is no certainty whether the case made at that point would be deemed acceptable by the Planning Inspectorate but if unsuccessful the formal identification of a site at Deposit stage by the Council would then place the onus on the Inspector/Welsh Government to propose a way forward. This argument could be strengthened and potentially be avoided altogether if the Council immediately followed up the allocation
by submitting and determining a planning application under the provisions of the Unitary Development Plan prior to Local Development Plan Examination.

7.5 A number of authorities across the country have proceeded to Deposit Local Development Plan with sites positioned within areas liable to flooding. For example, Newport City Council identified a site partially positioned within Flood Zone C1 whilst Cardiff City Council identified a site within Flood Zone C2 (though this site was subsequently removed as part of the Examination process but will be kept under review within the Monitoring Framework). As previously outlined defining such sites may be questioned at the Examination stage but their identification at the very least ensured that their respective Deposit Plans proceeded.

7.6 If the highlighted site is to be considered then there will be certain additional cost implications for the Council such as the need to commission consultants to undertake a Flood Consequences Assessment (Hydraulic modelling). It is estimated that the cost for this particular Assessment would equate to approximately £10,000 though this may vary dependent on the scale of the area considered. The rationale for this work would be to highlight appropriate mitigation measures and to try and counter objections from Natural Resources Wales. It is important to note that the outputs from this Assessment may indeed conclude that the defined on site constraints are considered insurmountable. However, this work will have to be undertaken if the site options identified are to be proposed within the Deposit Local Development Plan and would need to be carried out in any event in order to inform the submission of a planning application.

7.7 A full assessment of the sites would have to be undertaken in consideration of the provisions of the guidelines established within Welsh Government Circular 30/2007 – Planning for Gypsy and Traveller Caravan Sites and considering all potential constraints e.g. given the historic use of the land then it is anticipated that a Contaminated Land Survey would have to be undertaken. The Circular also highlights the fact that when identifying sites the local planning authority should work with the Gypsy & Traveller community. With this in mind, the Gypsy & Traveller families would have to be approached immediately and feedback gained regarding the proposal.
8.0 Equality and Engagement Implications

8.1 An initial Equality Impact Assessment was undertaken and published as part of the Task & Finish Group consultation exercise. This Equality Impact Assessment will remain open throughout the process of identifying suitable Gypsy & Traveller site provision and therefore it is considered appropriate to refer to its outcomes as part of the consideration of this report. In identifying potential methods of implementation then there may be a need to review the Equality Impact Assessment. The open Assessment outlined some of the positive outcomes of identifying and developing appropriate accommodation provision for Gypsy & Travellers. The main equality outcomes were:

If permanent sites are developed, this will allow Gypsy & Traveller families to have a permanent address and increase their access to local services which will in turn reduce inequalities over time (e.g. health, education, employment).

There are balances to be made between Gypsy & Travellers needs and the needs of existing residents and businesses.

8.2 The matters referred to in this report engage the Council’s public sector equality duty specified in Section 149 of the Equality Act 2010. The Council as a Public Authority must have due regard for the need to eliminate discrimination harassment and victimisation etc., advance equality opportunity and foster good relations. This duty applies to the protected characteristics identified in the Act. One of these characteristics is race which includes but is not limited to Gypsies and Irish Travellers.

9.0 Financial Implications

9.1 Dependent on the approach adopted, there will be a varying degree of additional financial implications arising from this report. Work on identifying and implementing appropriate site provision will need to be financially supported.

9.2 There is no capital budget provision for the development or management of a new permanent site. Development costs have been estimated by the Welsh Government to be possibly in the region of £2 million although this does depend on design, substructure, associated infrastructure costs and the level of facilities provided. Some sites cost more to develop than others but as a guide a site consisting of 14 pitches recently developed in
Brecon cost approximately £2 million to create.

9.3 The potential identification of appropriate site provision on privately owned land would result in a considerable additional cost implication on the Council. Whilst the actual cost would be dependent on the size and location of the site the fact that the land would effectively need to be acceptable for residential use would be reflected in the cost of purchasing the land. As an indication, Welsh Government sources have confirmed that Powys County Council/Brecon Beacons National Park Authority had to pay approximately £1 million for the site to cater for 14 pitches through activating Compulsory Purchase Order powers. Furthermore, the purchasing of the land through this mechanism may prove problematic and may result in further delays in identifying appropriate site provision.

9.4 There is the opportunity to bid for grant for which £1.5 million has (at present) been set aside each year across Wales. Bids for financial assistance in successive financial years may be successful in increasing the total grant aid available. If a transit site is also to be developed this will ultimately have additional financial implications. Bids need to be based on fully prepared schemes that have been granted planning consent and it is clear that, whichever site is chosen, a fully costed scheme would have to be available. Neath Port Talbot County Borough Council have within the last few months secured approximately £1.5 million grant funding for the creation of an additional 11 new pitches and amenity blocks to extend their existing Cae Garw site which already accommodates 27 pitches. As more and more local authorities in Wales develop their schemes to comply with their duties, it follows that less assistance may be available from the Welsh Government.

9.5 Costs associated with presenting appropriate sites to be considered via the Local Development Plan preparation/planning application process will vary dependent on the scale of the proposal. This may include site specific required studies such as undertaking a Flood Consequences Assessment, Contaminated Land Study etc. estimated to cost approximately £10,000 each. Such associated costs in providing appropriate site provision are minimal in comparison with potential savings made on managing and restricting illegal encampments within the County.

9.6 If the Deposit Local Development Plan were to be published without appropriate Gypsy & Traveller provision the probability is that it would be found unsound and would be referred back to the Council to redraft at considerable additional cost. Such costs are estimated to be around
£30,000 based on officer time, Plan/Policy amendment and reassessment, repeat publication and publicity costs (a full redraft of the Plan would be unlikely to be required based on inclusion of a specific additional site). However, if the overall strategy is deemed unsound and Plan preparation had to revert to the Pre Deposit stage then Welsh Government sources have estimated that this cost could equate to approximately £400,000.

9.7 The report identifies a number of risks, including financial ones, around reflecting planning and housing matters with regards to the Gypsy & Traveller need/provision within the Local Development Plan framework and process.

9.8 Given the report seeks Cabinet Member views around how to get the principles enshrined within the Local Development Plan, but does not progress any further the practical challenges of identifying and agreeing any future site provision, it is going to be necessary to fully consider all financial implications in due course. Notwithstanding this, there is no financial provision within the Capital programme for site acquisition and this will clearly need to be taken into account as part of any overall decision as to which, if any, of the options are acceptable to Cabinet.

10.0 Legal Implications

10.1 The identification and implementation of appropriate Gypsy & Traveller site provision will clearly demonstrate the Council’s commitment to fulfilling its obligations under the provisions of the Housing (Wales) Act 2014, Planning and Compulsory Purchase Act 2004, Human Rights and Race Relations Laws.

10.2 There is a range of legislation, national policies and guidance concerning Gypsy & Travellers which place obligations on local authorities in Wales when exercising their functions and responsibilities.

10.3 The legislative framework has also evolved whereby the Housing (Wales) Act 2014 requires local housing authorities to undertake a Gypsy & Traveller Accommodation Needs Assessment and includes a duty on local housing authorities to provide sites for Gypsy & Travellers where a need has been identified in those Assessments. The Act is now in force, having received Royal Assent on 17th September 2014. However, the majority of its provisions still need to be brought into effect by further commencement orders by the Welsh Ministers over the next two years. The Gypsy & Traveller elements of the Act are anticipated to be enforceable from March 2016. The effect of this provision is that where a
need for site(s) has been identified, but not met, Welsh Ministers will have the power to compel local authorities to provide sites for Gypsy & Traveller communities.

10.4 The Council's statutory duties under the new Local Development Plan system are contained in Part 6 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005. With specific regard to Gypsy & Traveller issues then Circular 30/2007 – Planning for Gypsy and Traveller Caravan Sites provides guidance on planning for Gypsy & Traveller sites.

10.5 Romany Gypsies and Irish Travellers are legally recognised as ethnic groups, and protected from discrimination by the Equality Act (2010) and the Human Rights Act (1998).

10.6 All other legal implications arising from this report have been set out in detail within the body of the report.

Background Papers:

City & County of Swansea Unitary Development Plan (November 2008)

Welsh Government Circular 30/2007 - Planning for Gypsy and Traveller Caravan Sites

Appendices:

Appendix 1 – Delivery Options and Indicative Timescale
Appendix 2 – Ty Gwyn Road, Llansamlet
Appendix 3 – Detailed Flood Zone Map for Ty Gwyn Road, Llansamlet
G&T site(s) provision should be identified and subject to consultation at this point

**Appendix 1**
Delivery Options and Indicative Timescales

1) Task & Finish

- Complete Task & Finish Group Work

2) LDP

- Site Search

3) UDP

- Pre Deposit Plan
- Deposit Plan
- Planning Application and Approval via UDP

4) Housing Act

- Royal Assent

- Anticipated G&T Order

G&T site(s) provision must have been identified and planning approval gained prior to this point

G&T site(s) provision will become a legislative requirement for Authorities to deliver at this point
Appendix 2 – Ty Gwyn Road, Llansamlet
Appendix 3 – Detailed Flood Zone Map for Ty Gwyn Road, Llansamlet