

Public Document Pack



PLEASE NOTE THAT PRAYERS WILL BE HELD AT 6.50PM BEFORE THE COMMENCEMENT OF THE BUSINESS OF THE COUNCIL.

THE MAYOR REQUESTS THAT ANY MEMBER WISHING TO PARTICIPATE IN PRAYERS BE IN ATTENDANCE BY NO LATER THAN 6.45PM.

Dear Sir/Madam,

You are summoned to attend the meeting of the Borough Council of Newcastle-under-Lyme to be held in the **Jubilee 2 - Dance Studio - (Second Floor) - Brunswick street, Newcastle, Staffs** on **Wednesday, 21st July, 2021** at **7.00 pm**.

B U S I N E S S

1 APOLOGIES

2 DECLARATIONS OF INTEREST

To receive declarations of interest from Members on items contained within this agenda.

3 MINUTES OF PREVIOUS MEETING (Pages 5 - 10)

To consider the minutes of the previous meeting(s)

4 MAYOR'S ANNOUNCEMENTS

5 WALLEYS QUARRY - UPDATE ON PROBLEM ODOURS IN THE BOROUGH (Pages 11 - 30)

6 RECOMMENDATION OF THE INDEPENDENT REMUNERATION PANEL

Report to follow.

7 STATEMENT OF THE LEADER OF THE COUNCIL (Pages 31 - 34)

To receive a statement by the Leader of the Council on the activities and decisions of Cabinet and items included on the Forward Plan.

8 REPORTS OF THE CHAIRS OF THE SCRUTINY COMMITTEES (Pages 35 - 40)

Reports attached:

- a) Finance, Assets and Performance Scrutiny Committee
- b) Economy, Environment and Place Scrutiny Committee
- c) Health, Wellbeing and Partnerships Scrutiny Committee

9 REPORTS OF THE CHAIRS OF THE REGULATORY COMMITTEES

(Pages 41 - 44)

Reports attached:

- a) Audit and Standards Committee
- b) Licensing and Public Protection Committee

A verbal update will be given for the Planning Committee.

10 QUESTIONS TO THE MAYOR, CABINET MEMBERS AND COMMITTEE CHAIRS

11 RECEIPT OF PETITIONS

To receive from Members any petitions which they wish to present to the Council.

12 URGENT BUSINESS

To consider any communications which pursuant to Appendix 7, Procedure Rule 8 of the constitution are, in the opinion of the Mayor, of an urgent nature and to pass thereon such resolutions as may be deemed necessary.

13 DISCLOSURE OF EXEMPT INFORMATION

To resolve that the public be excluded from the meeting during consideration of the following report(s) as it is likely that there will be disclosure of exempt information as defined in paragraphs contained within Part 1 of Schedule 12A (as amended) of the Local Government Act 1972.

Yours faithfully



Chief Executive

NOTICE FOR COUNCILLORS

1. Fire/Bomb Alerts

In the event of the fire alarm sounding, leave the building immediately, following the fire exit signs..

Fire exits are to be found at the side of the room leading into Queens Gardens.

On exiting the building Members, Officers and the Public must assemble at the statue of Queen Victoria. DO NOT re-enter the building until advised to by the Controlling Officer.

2. Mobile Phones

Please switch off all mobile phones before entering the Council Chamber.

3. Notice of Motion

A Notice of Motion other than those listed in Procedure Rule 14 must reach the Chief Executive ten clear days before the relevant Meeting of the Council. Further information on Notices of Motion can be found in Section 5, Standing Order 20 of the Constitution of the Council.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

COUNCIL

Wednesday, 19th May, 2021
Time of Commencement: 7.25 pm

Present: Councillor John Cooper (Chair)

Councillors:	Kenneth Owen	Stephen Sweeney	Barry Panter
	Simon White	Simon Tagg	Ruth Wright
	June Walklate	Silvia Burgess	Gary White
	Ian Wilkes	Mike Stubbs	Jill Waring
	Gillian Williams	Amelia Rout	Andrew Fox-Hewitt
	John Williams	John Tagg	Brian Johnson
	Andrew Fear	Paul Northcott	Annabel Lawley
	Tony Kearon	Bert Proctor	Sue Moffat
	Paul Waring	Sylvia Dymond	Jennifer Cooper
	Mark Holland	Trevor Johnson	Gillian Burnett
	Julie Cooper	Andrew Parker	Helena Maxfield
	Marion Reddish	Sarah Pickup	Graham Hutton
	Kyle Robinson	Mark Olszewski	David Grocott
	Elizabeth Shenton	Dave Jones	
	Gill Heesom	Allison Gardner	

Officers:	Geoff Durham	Mayor's Secretary / Member Support Officer
	Martin Hamilton	Chief Executive
	Simon McEneny	Executive Director - Commercial Development & Economic Growth
	Daniel Dickinson	Head of Legal & Governance /Monitoring Officer
	Sarah Wilkes	Head of Finance / S151 Officer

Also in attendance:

1. **APOLOGIES**

There were no apologies.

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

3. **MINUTES OF PREVIOUS MEETINGS**

Resolved: That the Minutes of the meetings held on 24 February and 18 March, 2021 be agreed as correct records.

The Leader gave an update on the Minutes from the 18 March meeting in respect of Walleys Quarry. The Cabinet had

received an update and a report would be brought to the Council meeting in July.

4. ELECTION OF MAYOR 2021/22

Two nominations were received:

Councillor Ken Owen. Proposed by Councillor Bert Proctor and seconded by Councillor Simon Tagg.

Councillor John Williams. Proposed by Councillor Stubbs and seconded by Councillor Mark Olszewski.

A vote was taken.

Resolved: That Councillor Ken Owen be appointed as Mayor for the 2021/22 Municipal Year.

The Mayor Made the Declaration of Acceptance of Office.

Councillor Ken Owen in the Chair

5. APPOINTMENT OF DEPUTY MAYOR 2021/22

Two nominations were received:

Councillor Gill Burnett. Proposed by Councillor Simon Tagg and seconded by Councillor Stephen Sweeney.

Councillor Elizabeth Shenton. Proposed by Councillor Mike Stubbs and seconded by Councillor Dave Jones.

A vote was taken.

Resolved: That Councillor Gill Burnett be appointed as Deputy Mayor for the 2021/22 Municipal Year.

The Deputy Mayor Made the Declaration of Acceptance of Office.

6. MAYORAL APPOINTMENTS

Mayoress:	Rachel Eaton
High Constable:	Daniel McDonald
Chaplain:	Rev. Joshua Penduck
Mace Bearers:	Angela Mayer and Alderman Chris Malkin
Mayor's Cadet:	Flt.Sgt Chloe Weymouth

7. **MAYORAL ADDRESS**

The Mayor thanked members for electing him and stated that he was honoured to be appointed to the role which he would carry out to the best of his ability. The Mayor looked forward to attending many engagements throughout his year in Office.

Members were advised that the Mayor's first Civic engagement would be his Civic Service in July.

8. **VOTE OF THANKS TO THE RETIRING MAYOR AND MAYORESS**

On behalf of the Council, The Leader, Councillor Simon Tagg expressed gratitude and appreciation to the retiring Mayor and the Mayoress. This had been a difficult year, tinged with sadness with the Mayoress, Angela Cooper passing away. The Leader stated that Angela had been proud to see the Mayor serve a second term although, due to the Coronavirus this had not been a normal year for engagements. The Leader thanked the Mayor for the work that he had done and wished him all the best for the future.

Councillor Stubbs echoed the Leader's words stating that the Mayor had served through a tumultuous year with grace and favour and facing the trials and tribulations of his personal life.

Councillors' Proctor and Reddish echoed the comments stating that he had carried out his role with dignity throughout a difficult year and he was respected across the Borough.

9. **RESPONSE OF THE RETIRING MAYOR AND SUMMARY OF THE MAYORAL YEAR**

The Mayor stated that he was grateful for the kind words spoken for himself and the Mayoress. It had been an unusual year but he was grateful and thankful for the opportunity to serve a second term.

The Mayor thanked officers for the work they had done and the support and understanding during a difficult time for himself and his family. The Coronavirus had stopped a lot of engagements.

10. **APPOINTMENT OF DEPUTY LEADER AND CABINET**

The Leader confirmed Councillor Sweeney as Deputy Leader and the following as members of the Cabinet for 2021/22:

Councillor Gill Heesom
Councillor Trevor Johnson
Councillor Paul Northcott
Councillor Jill Waring
Councillor Stephen Sweeney
Councillor Simon Tagg

11. **APPOINTMENTS TO COMMITTEES, CHAIRS AND VICE CHAIRS FOR 2021/22**

It was proposed by Councillor S Tagg and seconded by Councillor Sweeney that the appointments to committees, for 2021/22 be as set out in the Agenda.

Committee Membership

Resolved: That the appointments to committees, as set out in the agenda, be approved.

Chairs and Vice-Chairs

Where there were more than one nomination for Chair or Vice- Chair a vote was taken.

Resolved: That the following Chair and Vice-Chair appointments be approved:

COMMITTEE	CHAIR	VICE-CHAIR
Audit and Standards	Paul Waring	Barry Panter
Conservation Advisory	Julie Cooper	Trevor Johnson
Licensing and Public Protection	Simon White	Graham Hutton
Planning	Andy Fear	Marion Reddish
Health, Wellbeing and Partnerships Scrutiny	Ian Wilkes	Julie Cooper
Economy, Environment and Place Scrutiny	Gary White	Helena Maxfield
Finance, Assets and Performance Scrutiny	Mark Holland	Bert Proctor

12. EXTERNAL ROLES AND APPOINTMENTS

Consideration was given to a report asking Members to note the current position in respect of the external roles and appointments. An appendix to the report was tabled at the meeting.

The Leader advised that the appointments would be renewed at the Council meeting which immediately followed Borough elections and they would continue for a four year term. There were some areas which were awaiting further information and the Leader asked Members who were involved with any of the organisations listed to advise the Monitoring Officer if they had been wound up or a Council representative was no longer required. The Leader moved the recommendation which was seconded by Councillor Sweeney.

Councillor Stubbs queried whether the Council felt that there was any value in having a representative on the Waste and Mineral Site Liaison Committees when they ignored the Council. Particular reference was made to Walleys Quarry.

The Leader sympathised with the comments and stated that there was a stalemate with the operator and representatives did not attend the last meeting and would not go to any future meetings until they were broadcast. The Leader added that, even by not attending, the Council were making a statement.

Councillor Reddish agreed with the Leader, stating that 'silence spoke a lot!', and agreed that the representatives from the Council should remain on these Liaison Committees.

Resolved: That the report be noted.

13. CALENDAR OF MEETINGS 2021/22

Consideration was given to a report asking Members to note the calendar of meetings for 2021/22. The Leader introduced the report, stating that this was the full set of the Council meetings for the year.

The Leader advised that the 'Six Month's Rule' which had been suspended due to the Coronavirus, had now resumed following a court case which ruled that local authority meetings must meet in person. The Leader hoped that there would be no need to go back into restrictions in the future. The Leader moved the recommendation which was seconded by Councillor Sweeney.

Resolved: That the report be noted.

14. CONFIRMATION OF THE CONSTITUTION

Consideration was given to a report asking Council to confirm the Constitution. The Leader introduced the report and moved the recommendation. The Leader stated that a report for Member's Allowances would normally have been expected to be brought to this meeting but this had been delayed by Covid. Once the Remuneration Panel had met, any recommendations would be implemented from the new Council term in 2022.

Councillor Sweeney seconded the recommendation.

Resolved: That Council notes that there are no new amendments made or proposed to the Council's constitution, and that its content as currently drawn (16/12/20), including the various schemes of delegation, are confirmed.

15. URGENT BUSINESS

There was no urgent business.

**COUNCILLOR JOHN COOPER
COUNCILLOR KEN OWEN
Chair**

Meeting concluded at 8.25 pm

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO

Council
21 July 2021

Report Title: Walleys Quarry - Update on Problem Odours in the Borough

Submitted by: Chief Executive

Portfolios: One Council, People & Partnerships

Ward(s) affected: All

Purpose of the Report

To provide Council with an update regarding ongoing work to address problem odours in the Borough and to report back on actions agreed at the special Council meeting on 18th March 2021.

Recommendation

Council is recommended to note the current position regarding the persistent foul odours from Walleys Quarry, and the work being taken to address this issue;

Reasons

To ensure that Council is aware of the latest position regarding this high priority area of work.

1. **Background**

- 1.1 For a number of years, parts of the borough have suffered from problematic foul odours from the Walley's Quarry Landfill Site in Silverdale. Until recently the site was operated by RED Industries Ltd, but in April the name of the operator has been changed to Walleys Quarry Ltd, albeit with many of the same company directors.
- 1.2 Addressing this issue has been a priority for the current administration, with a budget specific budget of £50,000 agreed in February to enabled specialist advice to be secured and targeted work to be undertaken. During 2020 the Economy Environment and Place Scrutiny Committee undertook a detailed investigation of the issue which made recommendations to a range of stakeholders. Over the weekend of the 26–28 February 2021 the Council received over 2000 complaints from residents and organisations in the borough and further afield about the foul odours present in the area. Consequently, an extraordinary meeting of the full council was convened on 18th March to discuss the findings of the scrutiny review, a report on the incident of 26-28 February, and a Notice of Motion on next steps.
- 1.3 Throughout this year Cabinet has received a series of reports updating it on the work being undertaken by the Council and by partners to address this ongoing issue. The latest of these, from 7th July Cabinet, is appended to this report. This report summarises actions by the Council and its partners since the Council debate, and also reports on the specific actions agreed by Council.

1.4 Problems with odours have continued since the February incident. The table below shows the level of complaints received by the Council and by the Environment Agency in 2021.

Complaints To	January 2021	February 2021	March 2021	April 2021	May 2021	June 2021	Total Year to Date
Council*	921	3,263	4,799	3,316	3,466	1880	17,649
Environment Agency	2,050	4,098	6,347	6,181	8,482	4444	31, 602

*verification of complaints data has been undertaken since the last reported figures.

2. Issues

- 2.1 The Walley's Quarry Landfill Site, which is the focus of concern regarding the foul odours, is regulated by the Environment Agency who undertake regular monitoring activity to ensure that the site is operating in compliance with its Environment Agency Permit. The Borough Council does not regulate the site, but does monitor odours in the area and is required to take enforcement action if a Statutory Nuisance is identified.
- 2.2 Since the incident on the 26-28 February, and the subsequent Council debate, there has been a step change in multi-agency working regarding the landfill operation, associated odours, and in particular the potential impact on health. Agencies involved in overseeing aspects of the local impact of the landfill have been in regular meetings, and separate senior level meetings between the Council and the Environment Agency have also taken place, including meetings involving the Leader of the Council, Leader of Staffordshire County Council and senior EA representatives.
- 2.3 Since March partners have worked within the Local Resilience Forum structure of an Incident Management Group (IMG), to co-ordinate actions to monitor the impact of the odours and the action to reduce their incidence. In June 2021 multi-agency working was escalated to a Strategic Co-ordinating Group (SCG) due to the length of time that the odour problem was persisting, and to afford partners a structured route into additional technical support and advice. The SCG includes within its membership a representative of the Ministry of Housing Communities, and Local Government (MHCLG).
- 2.4 Cabinet has received regular reports on the work being undertaken regarding this issue, and has commissioned a variety of work by officers which is reflected in this report.

Actions Arising from Council Meeting – 18th March

- 2.5 Arising from the Council meeting a series of letters were sent. These, and the responses received, are summarised below:
 - **Environment Agency**, requesting immediate suspension of the licence for waste operations at Walley's Quarry, including import of waste material at the site, until the cause of the "foul odours" has been identified and resolved;
 - **Response** – noted that the EA should only exercise its discretion to suspend permitted activities which are linked to the risk of pollution, and that in this case they did not

believe that the acceptance of fresh waste was the cause of the odour. The response further stated that the EA are “content that our current permit conditions are suitable and enforceable..”

- **Secretary of State for Environment, Food & Rural Affairs**, to request an independent investigation into the regulatory performance of the Environment Agency in their handling of the permit;
 - **Response** – summarised the EA’s work at that time regarding the landfill, and directed the Council to the EA’s complaints process;
- **Public Health England and the North Staffordshire Clinical Commissioning Group**, requesting regular health screening for residents who are concerned of potential health impacts as a consequence of the regular presence of “foul odours”;
 - These requests have superseded by the acceleration of inter-agency working through the IMG and now the SCG in which both PHE and the CCG are fully involved. Work regarding health surveillance has been progressed to include:
 - i. Syndromic Monitoring, through which presentations to GPs, A&E, 111 services, etc are monitored to identify differential trends;
 - ii. Research commissioned from Keele University to identify health trends which can be linked to the odours;
 - iii. Launch of an online Symptom Tracker by SCC to allow residents to report health impacts;
 - iv. Review of Air Quality data by PHE to identify and report any health risks arising (see para 2.7 and onwards below);
- **Staffordshire County Council and Stoke on Trent City Council**, seeking their support in making similar requests to both the Environment Agency and DEFRA.
 - **Response** – Both organisations have offered their support and are actively involved in the SCG;
- In addition, there has been communication with the Prime Minister, and an adjournment debate in Parliament on the matter.

Actions Arising from the Scrutiny Review

2.6 At its meeting on 18th March, Council received the scrutiny report which made a number of recommendations for a range of organisations, and these have been forwarded to those organisations for consideration and response. Within the report were 9 recommendations for the Council itself to address. These provide a useful framework for reporting activity generally:

Recommendation 1: Undertake a review and appraisal of EA monitoring data and work with the EA for any future monitoring;

2.7 The Council commissioned air quality consultancy Ricardo to undertake a review of the first two EA monitoring campaigns. Ricardo concluded that the EA monitoring campaigns focussed on assessing the landfill’s potential impact on public health through its influence on local H₂S concentrations, and were useful in showing that the H₂S concentrations measured did not pose a direct health issue to local residents. However the monitoring did not provide a comprehensive view on the presence/absence of offensive odours, nor the potential psychosomatic effects of such odours.

2.8 The Ricardo report recommended that future monitoring should robustly address whether there was significant pollution which may:

- Be harmful to human health or the quality of the environment
- Cause offence to a human sense
- Result in damage to a material property
- Impair do interfere with amenities or other legitimate uses of the environment.

2.9 Subsequently, the EA, SCC, and this Council have jointly funded an extension to the air quality monitoring, with four static units being in operation. The parameters monitored include Hydrogen sulphide (H₂S), Methane (CH₄), Oxides of nitrogen (NO_x, NO, NO₂), Particulate Matter (TSP, PM₁₀ and PM_{2.5}), Volatile Organic Compounds (VOCs) including Benzene, Toluene, Xylene and Ethylbenzene. In addition meteorological data will be collected. The data from these units is routinely assessed by PHE against World Health Organisation thresholds for annoyance and health impacts, with both the data and their assessments published. This information is summarised in the tables below:

Annoyance Levels

2.10 Hydrogen sulphide concentrations were above the World Health Organization's (WHO) odour annoyance guideline level (7 µg/m³, 30-minute average) for the following percentages of each week:

Location	19/4 – 25/4	26/4- 2/5	3//5 – 9/5	10/5- 16/5	17/5- 23/5	24/5 – 30/5	31/5 – 6/6	7/6 – 13/6	14/6 – 20/6	21/6 – 27/6	28/6 – 4/7	5/7- 11/7
MMF1 - Silverdale Cemetery	18%	4%	6%	15%	1%	7%	30%	1%	11%	2%	1%	5%
MMF2 - Silverdale Road	8%	10%	21%	20%	9%	15%	1%	10%	7%	1%	8%	18%
MMF6 - NuL Fire Station	4%	13%	6%	1%	10%	16%	6%	10%	9%	4%	8%	3%
MMF9 - Galingale View	21%	35%	48%	10%	53%	47%	18%	19%	13%	12%	10%	17%

Health Impact Level

2.11 The data provided to Public Health England (PHE), by the Environment Agency (EA) have been compared to available health-based air quality guidelines and standards or assessment levels for hydrogen sulphide, particulate matter, nitrogen dioxide, and methane. Where the concentrations in air are shown to be lower than appropriate health based standards or guidelines, it may be assessed that the risk to health is minimal. The 24-hour average guideline value for hydrogen sulphide (150µg/m³) was exceeded at one monitoring station on two days during the monitoring period: 7 & 8 March 2021, the highest of which was 202 µg/m³.

2.12 Exposure to concentrations of hydrogen sulphide above the WHO 24-hour guideline value does not necessarily mean eye irritation or other health effects will occur, but it reduces the margin of safety that is considered desirable to protect health. It is important however, to note public concerns in relation to odours. The human nose is very sensitive to odours, and substances that are perceived as odorous are commonly present at levels below which there is a direct toxicological effect. Odours can cause nuisance amongst the population possibly leading

to stress and anxiety. Some people may experience symptoms such as nausea, headaches or dizziness, as a response to odours even when the substances that cause those smells are themselves not harmful to physical health.

2.13 From this data analysed by PHE it is apparent that there are periods when the concentrations of Hydrogen Sulphide are at levels that “annoyance” will be caused, there has only been two days when the levels were above the level which might give rise to health impacts. However, given the length of time that the hydrogen sulphide concentrations have been elevated in the community, PHE have become concerned at the potential cumulative effect of long term exposure should this issue persist. Within the Strategic Co-ordinating Group, a group has been established to provide ongoing expert advice on this matter.

2.14 Whilst the periods when the annoyance level has been in exceedance has reduced overall, the levels create the potential for significant odour complaints to occur, a potential which is borne out by experience, which high levels of complaints continuing.

Recommendation 2 - Prepare and undertake air pollution monitoring, the results of which shall be made available on the Councils website;

2.15 In addition to joining with the EA on the provision of static air quality monitors, it has also deployed Jerome hand held air quality monitoring devices to be used both by Environmental Health Officers undertaking home visits, and to leave in properties for extended periods to monitor levels of H₂S.

2.16 These monitors have helped officers to develop a picture of H₂S concentrations and patterns of those concentrations over time as part of the effort to determine whether the odours give rise to a Statutory Nuisance, and whether an Abatement Notice should be served.

2.17 As this data was collected for purposes which may result in particular legal action, it has not yet been published on the Council’s website. The data from the four static monitoring stations, however, is routinely published.

Recommendation 3 - Request confirmation from the EA as to the odour source(s) and to specify appropriate method of control;

2.18 At the time of the March Council meeting, the EA had not found itself in a position to categorically state that the odours come from Walleys Quarry. However, that position has now changed, and the EA have identified instances of odour off site which they have been able to directly associate with the site, and have issued a breach notice on the operator for the presence of odour off site. Additionally, EA now routinely refer to the odour as coming from Walleys Quarry as opposed “associated with” or “the vicinity of”.

2.19 Walleys Quarry Ltd have continued to dispute that the odour originates from their site, and recently published a report suggesting an alternative source. The Council has identified no credible alternate source. The Scientific & Technical Advisory Cell (STAC) established under the LRF is analysis the report provided by Walleys Quarry ltd.

2.20 The odour arises from gas escaping from the site. In terms of the method of controlling the odour, the EA are following a strategy of Contain, Capture & Destroy:

- **Contain** – through effective permanent or temporary capping of the landfill cells, in order to contain the gas within the site, and avoid “fugitive emissions” – the term given to gas issuing from the surface and flanks of the site;

- **Capture** – refers to the operation of an effective gas management system which includes a number of wells and associated infrastructure which allows the gas generated within the site to be collected and transported to the Gas Utilisation Plant.
- **Destroy** – The Gas Utilisation Plant comprises generators, which destroy the gas by burning it to generate electricity, and flares, which simply burn the gas.

2.21 This strategy is consistent with the approach advocated by the landfill expert retained by the Council to advise on the Walleys Quarry issue. The EA's work with the landfill operator, and the focus of their enforcement activity, has been to improve the Contain, Capture and Destroy regime in operation on the site. This has involved:

- Increasing the portion of the site which has either been permanently capped or subject to temporary capping. One cell has now been permanently capped, and new approaches to temporary capping are being deployed, with c70% of the site to be capped by September.
- 22 Additional gas wells are being drilled on the site, bringing the total to 77.
- Improvements to capping and gas management to date have resulted in an additional 500 cubic meters per hour (reported by EA)

2.22 Since the weekend of the 26-28th February, the EA identified multiple breaches of the landfill operator's permit.

Recommendation 4 - Undertake odour nuisance investigations to establish whether a statutory odour nuisance exists under the provisions of section 79 of the Environmental Protection Act 1990 and to comply with the legal duties under that Act;

2.23 Officers have undertaken extensive work to establish whether a Statutory Nuisance exists. This has included:

- Conducted regular odour tours, both within the normal working day and out of hours, to monitor and witness odours;
- EHOs have identified and worked with specimen properties to assess odour in residents' homes;
- Deployment of Jerome hand held air quality monitors to assess H₂S concentrations inside residents' homes;
- Secured additional air quality monitoring data, through joint funding of the four stationary units operated by the EA
- Commissioned expert analysis of EA monitoring data by air quality consultants, Ricardo
- Commissioned advice on issues relating to the operation of the landfill be a landfill expert;
- Analysed impact statements provided by the community, through the Stop The Stink Cap It Off group;
- Collected statements from residents and affected bodies;
- Secured advice from Queen's Counsel's;

2.24 This work has generated a huge portfolio of data and evidence which has been analysed. Walleys Quarry Ltd have been afforded an opportunity to provide the Council with an effective action plan and acceptable timeline in place to prevent the emission of regular, persistent and offensive odours detectable beyond the site boundary, in order to avoid the need to revert to enforcement action. In response, Walleys Quarry provided a copy of their report asserting that the source of the odour lies elsewhere.

2.25 An update on this work will be provided at the Council meeting on 21st July, having been presented to Cabinet earlier the same day.

Recommendation 5 - Seek legal advice regarding any other legal routes to remedy odour and other issues identified to support the local community, business and residents;

2.26 Where a Statutory Nuisance is identified the Environmental Protection Act requires the Council to serve an abatement notice requiring the abatement of the nuisance, or prohibiting or restricting its occurrence or recurrence, and requiring steps be taken to achieve these outcomes. Advice has been sought from a QC who has confirmed that the focus of the Council's efforts should be on establishing a case for statutory nuisance and pursuing this route if possible. The advice further indicated the process through which this would then be progressed.

2.27 At Cabinet's request, officers have undertaken an appraisal of how respite support might be arranged for residents particularly impacted by this problem, and have designed a scheme. This scheme is being appraised by the STAC to assess its sufficiency and suitability. In addition, financial support for such a scheme is being sought from the Government.

2.28 Within the structure of the SCG, the Chief Executive is leading a multi agency team to assess the ongoing impact of the odours in the community, and to establish a range of support interventions. This group is making use of the considerable body of evidence provided by the community regarding the impact of the odours on both their health and their everyday lives. This has come mainly from two sources, which produce broadly comparable reports of the impact:

- Health impact Survey (HI) prepared by Aaron Bell MP;
- Impact Statements (IS) collected by the Stop the Stink Cap it Off group;
- Symptom Tracker (ST) conducted by County Council

2.29 These surveys show that:

- Headache is the symptom that is consistently reported as the most common across all the surveys, although the range is wide (between 49% IS to 82% HI).
- The results for Mental Health are similar across all three surveys and accounted for just under half of all participants.
- Nausea/feeling sick was reported by over half of respondents in two of the surveys (ST and HI).
- Eye irritation and disturbed sleeping were also reported by large amounts of respondents in both the (ST and HI surveys).
- Difficulty breathing was reported by just under a third of ST respondents and just under a quarter of HI respondents.

Recommendation 6 - Seek further PHE opinion following any further pollution monitoring in the vicinity of the site. Any further updates or advice received is to be published on the Council's website;

2.30 Following the incident of the 26-28 February, multi-agency working on this issue has accelerated, including valuable input from Public Health England (PHE); Through PHE evaluation of monitoring EA monitoring data it was found that World Health Organisation thresholds for H₂S had been exceeded on a number of occasions over the weekend of 6-7 March. This fact, along with the health implications, were made public, along with reassurance as to the likely short lived nature of health impacts. PHE now routinely review monitoring data and making public the results.

2.31 Public health advice has also been received from Staffordshire County Council, who have provided information to advise and inform the community on health matters.

Current Situation

2.32 Since Cabinet allocated additional resource to address this issue, and since the special Council discussed the matter, there has been significant work undertaken both by the Council and by its partners to understand the causes of the odour problems from Walleys Quarry, to establish a plan of action to address the cause, and to inform and advise the public regarding the associated risks.

2.33 Notwithstanding this, the problem of foul odours from the Walleys site continues to cause significant problems in the community, reflected in the volume of complaints which continue to be generated. The scale of the problem is such that co-ordinated action by a range of organisations continues to be required to address the issue, which has received both national media attention and been discussed at the highest levels of government.

2.34 On 21st July, Officers are taking a report to Cabinet inviting its consideration of the evidence assembled regarding Statutory Nuisance and its agreement to provide a budget to pursue an abatement notice in the event of a decision to do so. Any decision to issue an abatement notice will be taken by the Head of Environmental Services, as the appropriately qualified and authorised officer. An update on this will be reported at the Council meeting on 21st July.

3. **Proposal**

3.1 The Council is recommended to note the current position regarding the persistent foul odours from Walleys Quarry, and the work being taken to address this issue.

4. **Reasons for Proposed Solution**

4.1 To ensure that Council are aware of the latest position regarding this high priority area of work.

5. **Options Considered**

5.1 Consideration has been given to a variety of forms of monitoring and enforcement activity, however the expert advice secured has informed the direction selected.

6. **Legal and Statutory Implications**

6.1 The Environmental Protection Act 1990, section 79 is the legislation concerned with statutory nuisances in law. This is the principal piece of legislation covering the Council's duties and responsibilities in respect of issues relating to odour nuisance.

6.2 Section 79 defines the following as statutory nuisances

'(1) Subject to subsections (1A) to (6A) below, the following matters constitute "statutory nuisances" for the purposes of this Part, that is to say—

- (a) any premises in such a state as to be prejudicial to health or a nuisance;
- (b) smoke emitted from premises so as to be prejudicial to health or a nuisance;
- (c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;
- (d) **any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;**
- (e) any accumulation or deposit which is prejudicial to health or a nuisance;

- (f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;
- (fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;
- (fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance;
- (g) noise emitted from premises so as to be prejudicial to health or a nuisance;
- (ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road
- (h) any other matter declared by any enactment to be a statutory nuisance;

and it shall be the duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under section 80 below or sections 80 and 80A below and, where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint.'

6.3 Where a statutory nuisance is identified or considered likely to arise or recur, section 80 of the Act requires that an abatement notice is served on those responsible for the nuisance. The abatement notice can either prohibit or restrict the nuisance and may require works to be undertaken by a specified date(s). There is a right of appeal against any notice on prescribed grounds.

7. Equality Impact Assessment

7.1 The work of the Council in this regard recognises that the problematic odours in the area may impact on some groups more than others. The work is focussed on removing this impact.

8. Financial and Resource Implications

8.1 None directly arising from this report.

9. Major Risks

9.1 While the complaints from the public remain at their current level, the Council faces a reputational risk in terms of the public perception of the action it takes to reduce the harm experienced by the public. The Council is working across agencies to shape action taken and to encourage all partners to play active roles in addressing this issue.

10 UN Sustainable Development Goals (UNSDG)



11 **Key Decision Information**

11.1 This is not a Key Decision

12 **Earlier Cabinet/Committee Resolutions**

12.1 This matter has been variously considered previously by Cabinet, Economy, Environment & Place Scrutiny Committee and by Council on 18th March 2021. Updates have been provided to Cabinet at its April, June, and July meetings.

13 **List of Appendices**

Report to Cabinet – 7th July 2021

14 **Background Papers**

14.1 None

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO CABINET

7 July 2021

Report Title: **Walleys Quarry Update Report**

Submitted by: Chief Executive

Portfolios: Environment & Recycling; One Council, People & Partnerships

Ward(s) affected: All

Purpose of the Report

To provide Cabinet with a further update regarding ongoing work to address problem odours in the Borough associated with Walleys Quarry.

RECOMMENDATIONS

Cabinet is recommended to:

- (1) Note that a response has been received to the letter before action, served on Walleys Quarry Ltd, which was not, in the view of Officers, sufficient to address the concerns raised.**
- (2) Note that despite the works that have taken place at Walleys Quarry landfill site, a significant level of complaints continue to be received from residents of the Borough and air monitoring data continues to show odour levels in exceedance of annoyance levels.**
- (3) Agree to hold a Special Cabinet Meeting on 21st July 2021 to carefully consider all of the evidence collated to date, and receive advice on whether or not an Abatement Notice should be served, and consider the financial implications of this.**
- (4) Progress the next steps in developing a temporary respite accommodation scheme including requesting financial support for the scheme from Government.**
- (5) Note the formation of the SCG and agree that the Council continues to work with and support multi agency partner organisations in order to investigate and resolve the odour issues.**
- (6) Prepare an update report for the Full Council Meeting on 21st July 2021.**

Reasons

To ensure that Cabinet are aware of the latest position regarding this high priority area of work and make arrangements to consider what next steps need to be taken.

1. Background

- 1.1 Previous reports have detailed how, for a number of years, parts of the borough have suffered from problematic foul odours, widely believed to come from the Walley's Quarry Landfill Site. The site is in Silverdale and is operated by Walleys Quarry Ltd which is part of the RED Industries group of companies. Addressing this issue has been a priority for the current administration, with a specific

budget of £50,000 agreed in February to enable specialist advice to be secured and targeted work to be undertaken.

1.2 The Environment Agency is the lead regulator for such sites, testing and enforcing compliance with the permit under which the site operates. The Council also has a role in influencing the operation and performance of such sites, where an operator fails to comply with actions required under an abatement notice issued by the Council in relation to any statutory nuisance caused by the site. Issuing an abatement notice may enable enforcement action to be taken in respect of future breaches.

1.3 At the last meeting of the Cabinet, a number of actions were agreed as follows:

- (1) Note that work to date by Council officers, supported by the efforts of other agencies, has ruled out the existence of any credible source of the borough odour problem other than Walleys Quarry, and once again calls on the operator of Walleys Quarry to accept its role in this issue and work to resolve it.
- (2) Note that a letter before action has been served on Walleys Quarry Ltd informing them of the Councils work regarding statutory nuisance and affording them the opportunity to provide to this Council any information to satisfy it that the company has an effective action plan and acceptable timeline in place to prevent the emission of regular, persistent and offensive odours detectable beyond the site boundary.
- (3) Note that any information received from Walleys Quarry Ltd to the letter before action will be considered after the expiry of the 14 day period for response, to inform the subsequent decision on the appropriateness of the Council serving a statutory abatement notice.
- (4) Agreed that the Council continues to work with and support multi agency partner organisations in order to investigate and resolve the odour issues.
- (5) Welcomed the proposal put forward by Councillor Derrick Huckfield and requests officers to evaluate the approach with the Environment Agency to inform future actions.
- (6) Request that officers prepare with Staffordshire County Council a letter to residents in affected areas highlighting the work of the two Councils
- (7) Ask officers to investigate, in consultation with the portfolio holder, the case for establishing an emergency accommodation scheme for those with underlying health conditions in areas most affected by hydrogen sulphide emissions.
- (8) Invite the Health, Wellbeing and Partnerships Scrutiny Committee to discuss the health issues arising from the gas odours from Walleys Quarry.

1.4 This report summarises both the latest position following a detailed report at your last meeting regarding the odours, action to regulate the Walleys Quarry site, and the actions being taken by the Council.

2. **Issues**

2.1 Since the incident on the 26-28 February, and the subsequent Council debate, there continues to be a step change in multi-agency working regarding the landfill operation, associated odours, and in particular the potential impact on health. Agencies involved in overseeing aspects of the local impact of the landfill continue to have been in regular meetings, as well as senior level meetings between the Council and the Environment Agency. A concerted focus on the issue has enabled progress to be made in a number of key areas, as summarised in the last report.

Complaints

2.2 Complaints of foul odours escaping from the site continue to be made by residents to both the Council and the Environment Agency. Table 1 below shows complaints made since January 2021, reflecting the major spike in complaints at the end of February 2021.

In the first 6 months of 2021 the Council has received a total of 17,638 complaints, and the Environment Agency 29,712. The Council routinely shares anonymised complaints with the landfill operator so that they can be aware of and address community concerns. In some cases the same complaint will have been submitted to both the Environment Agency and the Borough Council.

Crucially, whilst complaint levels appear to have decreased, they continue at a level which indicates that the issue with odours escaping the site have not abated and continue to have a negative impact on residents.

Complaints To	January 2021	February 2021	March 2021	April 2021	May 2021	June 2021 To date	Total Year to Date
Council*	921	3,263	4,799	3,316	3,466	1,873	17,638
Environment Agency	2,050	4,098	6,347	6,181	8,482	2,554	29,712

*verification of complaints data has been undertaken since the last reported figures.

Update Council Activity in relation to the Odour Problems

2.3 At the last meeting it was reported that a Letter before Action had been served on the operator, Walleys Quarry Ltd to give the company the opportunity to provide to this Council any information to satisfy it that the company has an effective action plan and acceptable timeline in place to prevent the emission of regular, persistent and offensive odours detectable beyond the site boundary.

Cabinet noted that any information received from Walleys Quarry Ltd to the letter before action would be considered after the expiry of the 14 day period for response, to inform the subsequent decision on the appropriateness of the Council serving a statutory abatement notice.

A response to the Council's letter has been received from Walleys Quarry Ltd. Whilst the Officer's view at this stage is that its content was not sufficient to address the concerns put to Walleys Quarry Ltd, it will be considered alongside the full range of information and evidence that is currently being prepared to establish whether there is a case for an Abatement Notice to be served.

2.4 In terms of progress made against the actions agreed at your last meeting, this is set out below:

- That the Council continues to work with and support multi agency partner organisations in order to investigate and resolve the odour issues.

The Council continues to be engaged in a multi-agency effort to secure co-ordinated action to address the issues related to Walleys Quarry. This work has involved colleagues from Environment Agency, Staffordshire County Council, Public Health England and the Clinical Commissioning Group.

A review of this work has been completed and in recognition that the issue has not yet been resolved, as well as the additional wider support and funding that may be required, a decision was made to move to a Strategic Co-ordinating Group structure to co-ordinate the partnership response to the ongoing incident.

- Welcome the proposal put forward by Councillor Derrick Huckfield and requests officers to evaluate the approach with the Environment Agency to inform future actions.

The proposal put forward by Cllr Huckfield has been evaluated and consists of steps to close the site, manage the gas and leachate removal infrastructure, manage dust and restore the site. With the exception of site closure, the effective management of gas, leachate and dust from the site are actions that sit with the EA are in their role of principle regulator.

The Environment Agency has also been engaged in respect to these proposals which also includes the question of the potential impact of a geological fault, which is in the vicinity of the landfill. A response from the EA is expected in respect of that latter point.

- Request that officers prepare with Staffordshire County Council a letter to residents in affected areas highlighting the work of the two Councils

Following the updating of health advice regarding the situation with Walleys Quarry, a multi-agency news release was produced highlighting the changed advice and the community engagement event arranged where the work of all agencies could be highlighted.

- Ask officers to investigate, in consultation with the portfolio holder, the case for establishing an emergency accommodation scheme for those with underlying health conditions in areas most affected by hydrogen sulphide emissions.

Investigations into options for the provision of temporary respite accommodation have been undertaken and a proposal prepared that would allow eligible residents to make use of a respite accommodation scheme. If implemented, the scheme envisages:

- Scheme open to any Newcastle-under-Lyme resident, and any family members with whom they live, whose GP confirms they have a health condition which is being adversely impacted by the odours from Walleys Quarry to the extent that short term respite is required;
- Respite for 1 two day break in any 6 month period;
- Respite accommodation to be in Staffordshire, to support local economy;
- Respite accommodation to be either 2-3 Star on Dinner, Bed, and Breakfast basis OR 2-3 Star Self Catered;
- Scheme to run for one year.

The case for respite accommodation is well understood in the arena of social care in providing positive impacts on mental health and personal resilience, and a scheme used by Highways England to provide relief for householders adjacent to certain major highways works is being researched to establish whether it provides a useful precedent.

The costs of the scheme which has been outlined is significant and for that reason it is proposed to seek urgent financial support from the Government to allow the scheme to be delivered.

- Invite the Health, Wellbeing and Partnerships Scrutiny Committee to discuss the health issues arising from the gas odours from Walleys Quarry.

Arrangements are being finalised for a joint scrutiny to be undertaken by the relevant Members from Staffordshire County Council and Newcastle-under-Lyme Borough Council to be held in Newcastle. It is envisaged that representatives from Staffordshire County Council Public Health, Public Health England and the local Clinical Commissioning Group will be in attendance.

- 3.1 The Council, Staffordshire County Council, and the Environment Agency are jointly funding a campaign of air quality monitoring which will run until August utilising four static air monitoring stations. Data from these stations is reviewed to provide information in relation to two standards relating to Hydrogen Sulphide (H₂S) – the WHO Health threshold and the WHO annoyance threshold, with this analysis published by stakeholders.
- 3.2 Hydrogen sulphide concentrations were above the World Health Organization’s odour annoyance guideline level (7 µg/m³, 30-minute average) for the following percentages of each week:

Location	19/4 – 25/4	26/4- 2/5	3/5 – 9/5	10/5- 16/5	17/5- 23/5	24/5 – 30/5	31/5 – 6/6	7/6 – 13/6	14/6 – 20/6	21/6 – 27/6	28/6 – 4/7
MMF1 - Silverdale Cemetery	18%	4%	6%	15%	1%	7%	30%	1%	11%	2%	
MMF2 - Silverdale Road	8%	10%	21%	20%	9%	15%	1%	10%	7%	1%	
MMF6 - NuL Fire Station	4%	13%	6%	1%	10%	16%	6%	10%	9%	4%	
MMF9 - Galingale View	21%	35%	48%	10%	53%	47%	18%	19%	13%	12%	

- 3.3 From this data it is apparent that whilst the periods when the annoyance level has been in exceedance has reduced overall, there remained potential for significant odour complaints to occur over these periods, with the Galingale View area remaining the most significantly impacted.

Although the EA has ensured the operator has undertaken significant improvements to gas capture, capping and leachate management, It is considered premature to view the reductions in gas detected at the monitoring stations as a permanent reduction in gas escaping from the landfill. There may be seasonal atmospheric factors in play that reduce the detection of H₂S gas at this time of year. Further measures such as on site gas emission testing will be necessary to determine whether there has been a significant reduction of gas escaping the landfill.

Odour Nuisance Investigations

- 4.1 The Council’s environmental health officers have been following up complaints to establish whether a statutory odour nuisance exists under the provisions of section 79 of the Environmental Protection Act 1990.

Work is now focusing on the collation and assessment of a range of potential evidence sources that will be used to consider whether a Statutory Abatement Notice should be served on Walleys Quarry Ltd. before the end of July.

5. Environment Agency Enforcement Action

- 5.1 The Environment Agency are engaged in a programme of compliance checking and enforcement activity relating to the Walleys Quarry site, with the priority objective of addressing the odour issues associated with the site experienced by the community.

5.2 Actions Required by the Environment Agency (EA) of Walleys Quarry Ltd

Since your last meeting, the EA have issued further updates on regulatory and enforcement action:

- EA 24th June update: *We have held a meeting with the operator to discuss gas management on the site and have agreed an action plan to improve gas containment and collection to further reduce odour. An additional 500 cubic metres per hour of landfill gas is now being collected and managed by the gas plant since February following the works which have been completed on site. This included additional capping, the installation of additional gas extraction wells and better sealing of the gas wells. Further capping on the flanks of the landfill is expected to commence mid-July.*

We have recently installed continuous water quality monitors downstream of the landfill and are also in the process of installing an additional monitor upstream of the site. The monitors will allow us to obtain live data on some key water quality parameters remotely. We know this has been a local concern and will allow us to monitor water quality in the local area continuously. Currently the landfill is not discharging to the local watercourse.

- EA 17th June update: *We have assessed monitoring data submitted by the operator for Quarter 1. As part of this process we have recorded three minor breaches. These include:*

Breaches of the permitted limits for leachate levels within the landfill. The company submitted an application in July 2020 to increase their permitted leachate level limits. We are currently considering their application.

The methane limit was exceeded at two boreholes. This was a minor exceedance of the limit which is 1%. The recorded level was 1.8%. Additional monitoring has been instigated to monitor this.

The company failed to monitor all the leachate points as required by their permit and one groundwater point which was reported as blocked. In response to these breaches we have issued the company with a compliance assessment report (CAR) that details action that they need to take by 25th June 2021.

- EA 10th June update: *WLQ are continuing to work on the necessary actions from the Environment Agency's recent compliance assessment reports. As a result the operator has identified areas suitable for additional sealing works to reduce the odour. This will see a further 17,200m² of uncapped areas sealed. Additional sealing would help to reduce the odour by ensuring it doesn't escape and instead is captured by the gas wells.*

- EA 1ST July update: *Walleys Quarry Limited is currently working to deliver the actions we've instructed them to carry out to manage the odour and landfill gas originating from the site. This includes:*

An action plan to improve the gas management and gas collection. This will see a further 22 gas collection wells drilled across the site over the coming months bringing the total to 77 gas wells.

Activity to cap the steep flanks of the landfill. This means nearly 70% of the site will be permanently or temporarily capped. Capping is important as landfill gas from the site needs to be better 'contained' on the site, rather than escaping off the site. Once contained, it can be processed and destroyed through the gas management system.

- *Walleys Quarry Limited raised concerns about a potential other source of hydrogen sulphide on the 25 March. Following that, the Environment Agency, along with the Coal Authority and Severn Trent Water investigated the issue and found no evidence of another source. On the 22 June we received a further, more detailed report from the operator on other potential sources of hydrogen sulphide in the vicinity of the landfill. We welcome this report from Walleys Quarry Limited and will now consider its findings.*
- *In March, we instructed the operator to permanently cap cell one and temporarily cap cell two, install further gas wells and better seal existing gas wells. This work now means an additional 500 cubic metres per hour of landfill gas is collected and managed, on top of the levels already being managed on the site. Previously this landfill gas may have been escaping off the site.*
- *The Environment Agency has deployed significant resources to monitor emissions in the air around Walleys Quarry. Our 4 mobile monitoring facilities (MMFs) monitor for hydrogen sulphide and other chemicals including benzene, toluene, ethylbenzene and xylene (BTEX). These are some of the most commonly produced chemicals in the world and are seen at low levels almost everywhere in the country. Our raw monitoring data has so far shown low levels of BTEX, in the vicinity of the Walleys Quarry. We have agreed with our partners to produce the full BTEX data set in the final report at the end of the monitoring exercise.*

The current focus of the remedial work being required by the Environment Agency remains consistent with the issues identified by the Council's own advisors as being necessary to bring the odour problems under control.

6. Health Surveillance

- 6.1 The data provided to Public Health England (PHE), by the Environment Agency (EA) have been compared to available health-based air quality guidelines and standards or assessment levels for hydrogen sulphide, particulate matter, nitrogen dioxide and methane. Where the concentrations in air are shown to be lower than appropriate health-based standards or guidelines, it may be assessed that the risk to health is minimal.

The 24-hour average guideline value for hydrogen sulphide was exceeded at MMF9 on two days during the monitoring period: 7 and 8 March 2021, the highest of which was 202 µg/m³. Exposure to concentrations of hydrogen sulphide above the WHO 24-hour guideline value does not necessarily mean eye irritation or other health effects will occur, but it reduces the margin of safety that is considered desirable to protect health.

The current hydrogen sulphide data up to the end of May shows continuing exposure to the population around the site, although any risk to long-term physical health is likely to be small. However, we would stress that we cannot completely exclude a risk to health from pollutants in the area, especially if exposure continues at these levels. Short-term health effects may be experienced such as irritation to the eyes, nose and throat. People who have health conditions that affect breathing, such as asthma, may experience increased frequency and/or severity of symptoms.

It is important however, to note public concerns in relation to odours. The human nose is very sensitive to odours, and substances that are perceived as odorous are commonly present at levels below which there is a direct toxicological effect. Odours can cause nuisance amongst the population possibly leading to stress and anxiety. Some people may experience symptoms such as nausea, headaches or dizziness, as a response to odours even when the substances that cause those smells are themselves not harmful to physical health.

Staffordshire County Council are maintaining an online “Symptom Tracker” to enable residents to log any health impacts which they are experiencing, and work is ongoing with Keele University to review existing health data to identify whether there are any identifiable changes in GP or other medical presentations which correlate to the impact of the landfill operation.

7. Proposal

7.1 That Cabinet:

- (1) Note that a response has been received to the letter before action, served on Walleys Quarry Ltd, which was not, in the view of Officers, sufficient to address the concerns raised.
- (2) Note that despite the works that have taken place at Walleys Quarry landfill site, a significant level of complaints continue to be received from residents of the Borough and air monitoring data continues to show odour levels in exceedance of annoyance levels.
- (3) Agrees to hold a Special Cabinet Meeting on 21st July 2021 to carefully consider all of the evidence collated to date, and receive advice on whether or not an Abatement Notice should be served, and consider the financial implications of this.
- (4) Progress the next steps in developing a temporary respite accommodation scheme including requesting financial support for the scheme from Government.
- (5) Note the formation of the SCG and agree that the Council continues to work with and support multi agency partner organisations in order to investigate and resolve the odour issues.
- (6) Prepare an update report for the Full Council Meeting on 21st July 2021.

8. Reasons for Proposed Solution

- 8.1 To ensure that Cabinet are aware of the latest position regarding this high priority area of work and make arrangements to consider what next steps need to be taken.

9. Options Considered

- 9.1 Consideration has been given to a variety of forms of monitoring and enforcement activity, however the expert advice secured has informed the direction selected.

10. Legal and Statutory Implications

- 10.1 The Environmental Protection Act 1990, section 79 is the legislation concerned with statutory nuisances in law. This is the principal piece of legislation covering the Council’s duties and responsibilities in respect of issues relating to odour nuisance
- The Environmental Protection Act 1990, section 79 sets out the law in relation to statutory nuisance. This is the principal piece of legislation covering the Council’s duties and responsibilities in respect of issues relating to odour nuisance.
 - The relevant part of Section 79 defines a statutory nuisance as any smell or other effluvia arising on industrial, trade or business premises which is prejudicial to health of a nuisance. The Council is responsible for undertaking inspections and responding to complaints to determine whether or not a statutory nuisance exists.
 - Where a statutory nuisance is identified or considered likely to arise or recur, section 80 of the Act requires that an abatement notice is served on those responsible for the nuisance.

The abatement notice can either prohibit or restrict the nuisance and may require works to be undertaken by a specified date(s).

- There is a right of appeal against any abatement notice issued on a number of grounds, one of which is that the site operator is using “best available techniques” to prevent the odours complained of. Compliance with the Environmental Permit issues by the Environment Agency, and any actions required by the Environment Agency will often be sufficient to demonstrate that an operator is using “best available techniques” and that can result in an abatement notice being quashed on appeal.
- The appeal process represents a significant resource commitment for the council in both time and expense, so it is important for the Council to be content that it stands a reasonable prospect of defending an appeal against any abatement notice that it issues.
- If the council succeeds in securing an abatement notice following any appeal process, it is then a criminal offence to breach the terms of the abatement notice. Because the site is regulated by the Environment Agency under an Environmental Permit, the council would need to obtain the consent of the Secretary of State before it is able to prosecute any offence of breaching an abatement notice.

11. Equality Impact Assessment

- 11.1 The work of the Council in this regard recognises that the problematic odours in the area may impact on some groups more than others. The work is focussed on removing this impact.

12. Financial and Resource Implications

- 12.1 None directly arising from this report, however the adoption of a temporary respite accommodation scheme has significant financial implications, in the range of £525k – £1.03m dependant on take-up, which is currently unaffordable if the Council were required to fund the costs itself. For that reason it is proposed to seek urgent financial support from the Government to allow the scheme to be delivered

13. Major Risks

- 13.1 While the complaints from the public remain at their current level, the Council faces a reputational risk in terms of the public perception of the action it takes to reduce the harm experienced by the public. It needs to balance that risk against the risk of issuing an abatement notice in circumstances where it does not stand a reasonable prospect of succeeding in any appeal against any notice that it issues.
- These risks are best abated by the Council continuing to work alongside its partner agencies to shape action taken by the Environment Agency as the primary regulator of the site and to encourage all partners to play active roles in addressing this issue.

14. Unsustainable Development Goals (UNSDG)





15. Key Decision Information

15.1 This is not a Key Decision.

16. Earlier Cabinet/Committee Resolutions

16.1 This matter has been variously considered previously by Economy, Environment & Place Scrutiny Committee, Council and most recently, Cabinet on 21st April 2021 and 9th June 2021.

17. List of Appendices

None

STATEMENT OF THE LEADER OF THE COUNCIL TO FULL COUNCIL – 21ST JULY 2021

Submitted by: Councillor Simon Tagg

Portfolio: All

Wards affected: All

Purpose of the Report

To provide an update to Members on the activities and decisions of Cabinet together with the Forward Plan.

Recommendation

That the statement of the Leader of the Council be received and noted.

Reasons

To update Council Members on the activities and decisions of the Leader and Cabinet and to allow questions and comments to be made on the Statement.

1. Cabinet Meetings

A selection of items and decisions of Cabinet since the last Leader's Statement are detailed below.

2. One Council Programme

The One Council Programme continues to shape the future of our Council and we are now moving to the implementation stage, which includes proposals around an enhanced, resident focussed "One Front Door" model based around a new website and streamlined customer service offer for our residents and local businesses, which will see more queries successfully resolved at the first point of contact. Staff consultation on this key change is now underway.

3. Back on Track – Coronavirus Pandemic Recovery Update

At the time of writing, the Prime Minister had indicated that Coronavirus restrictions will be lifted on the 19th July. Since the country emerged from lock-down in the spring the Council has focussed on reopening our town centres and market, the phased reopening of J2, and a continued focus on supporting vulnerable people and local businesses whilst maintaining Council services and focussing on the economic and financial recovery.

4. Business Improvement District (BID), Newcastle Town Centre – Re-Ballot

The Council indicated its support for the continuation of Newcastle-under-Lyme Business Improvement District in the successful BID Re-Ballot. The BID has now commenced its new 5-year term under a new Manager and an ambitious set of priorities to support business growth and investment, offering a welcoming, attractive and safe shopping experience and to promote Newcastle, its heritage and its cultural offer. The Council will continue to work with the BID as a key partner in creating a town centre for all.

5. **Town Deals and Future High Street Fund**

The Council was pleased to have confirmation in June of the award of £23.6 million by the Government for Newcastle's Town Deal Investment Plan. This follows the award of £16.9 million for Kidsgrove Town Deal and £11 million for Newcastle's Future High Street Fund.

The Council is now progressing plans to use this once in a lifetime investment in our Borough to regenerate our town centres, reopen sports facilities, improve transport links and make sustainable and digital infrastructure improvements.

6. **Kidsgrove Sports Centre Refurbishment**

Following the confirmation of £2.45m from the Kidsgrove Town Deal, Cabinet has given the go-ahead for the final phase of the refurbishment of the Sports Centre. This will lead to the re-opening of the Centre in the spring of 2022, which will enable swimming, fitness and indoor sports to finally return to Kidsgrove after the Sports Centre was closed by the previous Council administration in 2017.

7. **Borough Local Plan**

Work is progressing on the new Borough Local Plan. Cabinet have agreed a local development scheme and a draft statement of community involvement, which set the framework for progression of the Local Plan. A number of policies relating to future housing and industrial growth will be brought forward as part of an Issues and Preferred Options consultation this September.

8. **Aspire Housing – Prospectus for Joint Working**

Cabinet endorsed a Prospectus for Joint Working with Aspire Housing to provide housing developments within the Borough. This builds on the already close relationship between the two organisations and is designed to deliver a sustained housing offer, which will help to kick-start difficult sites and develop a commercial approach that maximises returns for both parties.

9. **Future Provision for Temporary Accommodation**

Following the review of temporary accommodation needs in the Borough, Cabinet agreed to support the development of options to ensure the availability of temporary accommodation such as supported housing, hostels and B&B's that are cost effective and that meets local need within the Borough. This includes maintaining a select list for emergency access accommodation and officers will be working with partner organisations to ensure supply of appropriate provision.

10. **Urban Tree Planting Strategy and Encouraging Greater Use of Parks and Open Spaces**

Cabinet approved an Urban Tree Planting Strategy which provides the framework for the management of the Council's tree stock and future tree planting proposals with a particular emphasis on carbon off-setting as part of the Council's commitment to achieve net carbon zero. The focus of future tree planting will be on land owned by the Borough Council and local Councillors will be invited to propose small green open spaces in their ward for tree planting.

It is also proposed to work closely with organisations such as Staffordshire County Council and Aspire Housing who own land within the Borough and have their own sustainability commitments and to explore opportunities to take part in urban tree planting as part of the Queen's Green Canopy to mark Her Majesty's Platinum Jubilee in 2022.

11. **Forward Plan**

The Forward Plan can be found at:-

<https://moderngov.newcastle-staffs.gov.uk/mgListPlans.aspx?RPIId=118&RD=0>

Councillor Simon Tagg
Leader of the Council

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Report of the Chair of the Finance, Assets and Performance Scrutiny Committee

The Committee met on 24 May to perform pre-decision scrutiny on the proposed extension to Bradwell Crematorium and development of land adjacent. The Committee also considered a petition of 1,700 signatures regarding the public consultation on the same matter. We were pleased to be meeting in person, to hear the views of the ward councillor and the comments of a public speaker in support of the petition.

Councillor Mark Holland
Chair

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Report of the Chair of the Economy, Environment and Place Scrutiny Committee

Since December 2020, the Economy, Environment and Place Scrutiny Committee has met twice.

11th March 2021 in which the committee scrutinised the decision to move to a standalone Borough Local Plan; reviewed the Sustainable Environmental Strategy and had updates on both Kidsgrove and Newcastle Town Deal Bid submissions as well as the Future High Street Fund update.

17th June 2021 in which the committee reviewed progress on the extra funding of £30k which has been available to the Arboricultural Dept over the last three years. They then went on to receive updates on the Kidsgrove and Newcastle Town Deal Bids and next stages of the Future High Street Fund spend.

Councillor Gary White
Chair

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Report of the Health, Wellbeing & Partnerships Scrutiny Committee

The Committee met on 7th June and the following matters were considered:

- The Committee considered a comprehensive update report on Anti-Social Behaviour services which included a snapshot of the current picture; local arrangements including work with partners; impact of Covid; and diversionary projects for the summer.
- Parks and Open Spaces Scrutiny Review – the final report from the Scrutiny Review was submitted and the recommendations were approved to submit to Cabinet and included pilot work to improve information at 2 parks and support for a project to plant 850 trees to celebrate the Borough's 850 Anniversary in 2023.
- Meeting with the Clinical Commissioning Group – the Committee received notes from the regular meeting between the Vice Chair, officers and Tracey Shewan of the CCG. This had included current progress with the vaccination programme and numbers of people in hospital with Covid. The Committee was informed that the council continued to promote messages about Covid safety on the website and of the measures operating in the high streets to maintain Covid safety.
- The Work Programme was discussed and the Committee agreed that the agenda for the next meeting would include an invitation to the Police, Crime and Fire Commissioner to discuss how the police manage Anti-Social Behaviour issues and a report on the Newcastle Housing Advice Service now the service has been brought back in-house.

Cllr Julie Cooper, Vice Chair (in the chair for the meeting)



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Audit and Standards Committee

The committee met on 8th February and again on 19th April 2021.

Meeting of 8th February 2021

During the course of the meeting, the business dealt with was as follows:

Andrew Smith of Grant Thornton presented the Annual Audit Letter for the year ended 31st March 2020, which summarised the key findings of the Audit for that year and confirmed that an unqualified opinion had been given in relation to the Council's Financial Statements.

Andrew detailed the reasons for the increase in the Audit fee, much of which had previously been disclosed to the committee. It is hoped that the amounts relating to Covid-19 may be reclaimed as part of the Government's financial support package. The increases will be reported to the PSAA, in order to ensure the Value for Money aspect of the charges, and payment made in accordance with PSAA advice.

Members now reviewed the Internal Audit Update for Quarter 3, showing that 90% of the Audit recommendations had been carried compared to the target of 96%. This was felt to be a fair result under the circumstances and the Audit team are looking at the latest CIPFA advice for local authorities to ensure that the use of resources is in accordance with most recent guidelines.

Sarah Wilkes, Head of Finance introduced the Quarter 3 Risk Management Report. There had been little change from Q2, but the number of overdue risk reviews now stood at 2. In accordance with a discussion at an earlier meeting, Members were invited to suggest to nominate three areas of risk for more detailed scrutiny at the next meeting and these were agreed to be Air Quality, Financial Risk and Workforce.

During discussion of the Committee Workplan it was agreed that a detailed report on the impact of Covid-19 be provided for the next meeting. Also that Standards Training be provided as soon as circumstances allow.

Meeting of 19th April 2021

The business dealt with was as follows:

Andrew Smith of Grant Thornton presented the Audit Plan highlighting the key areas of work, these being significant risks, materiality and value for money arrangements. He explained that there had been a change of scope whereby auditors are now required to undertake additional work to assess and understand the council's internal controls over accounting estimates. This would in future be reported to the committee for evaluation with the accounts.

Furthermore, it was reported that Grant Thornton had completed its planning work in relation to the audit of the financial accounts which is due to be presented to the committee at its September meeting.

The Corporate Risk Policy Statement and Risk Management Strategy 2021/22 were reviewed and details received of how these had changed since the previous year and how risks are rated in terms of impact and likelihood. Risks are scored either high, medium or low for each category and accompanied by an action plan to manage the risk.

Members were presented with a follow-up report detailing three areas of risk picked by members at the previous meeting. In each case, the risk management process was outlined and details of how individual risks are identified and subsequently managed, were given, in order to further members' understanding.

The Head of Finance now presented the policies supporting the Council's Counter Fraud arrangements which comprise:

Anti-Fraud and Anti-Corruption Framework

Fraud Response Plan

Whistleblowing Policy

Anti-Money Laundering Policy

These had been updated to reflect staffing changes and it was noted that all staff are required to undertake a short e-learning course, which will now be made available to committee members.

Clare Potts, Chief Internal Auditor, presented the proposed Internal Audit Plan 2021/22, which is based on perceived risks and the Council's objectives. Some areas of the plan would continue work already started in the previous year and significant emphasis would be given to areas affected by the pandemic and also local issues. Members approved The Internal Audit Charter and the Internal Audit Plan for 2021/22, in accordance with the committee's terms of reference and agreed to receive quarterly updates on the progress of the plan.

It was agreed that the meeting scheduled for 28th June be cancelled and the one item of business be added to the agenda for the meeting due to be held on 26th July.

Paul Waring

Chair of Audit and Standards Committee.

Report of the Chair of the Licensing and Public Protection Committee

Since December 2020 there have been 3 scheduled meetings of the Licensing and Public Protection Committee.

26th January 2021 - We reviewed the statutory Taxi and Private Hire Policy; establishing a cumulative impact assessment and reviewed the Sub-Committee meeting Minutes that had been held

16th March 2021 - We reviewed the variation of Public Spaces Protection Order for the control of dogs; there was a further review of the cumulative impact assessment and the Sub- Committee meeting Minutes.

8th June 2021 - Meeting cancelled due to lack of business

Councillor Simon White
Chair

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