

ECONOMY & PLACE SCRUTINY COMMITTEE

Wednesday, 12th October, 2022
Time of Commencement: 7.00 pm

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- Present:** Councillor Gary White (Chair)
- Councillors:** Bettley-Smith Gorton Moffat
Burnett Grocott Panter
Edginton-Plunkett Hutchison Skelding
- Apologies:** Councillor(s) Beeston
- Officers:** David Adams Executive Director - Sustainable Environment
Nesta Barker Head of Regulatory Services
Daniel Dickinson Head of Legal & Governance /Monitoring Officer
Denise French Democratic Services Team Leader
Martin Hamilton Chief Executive
- Also in attendance:** Councillor Simon Tagg Leader of the Council and Portfolio Holder - One Council, People and Partnerships

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. MINUTES OF PREVIOUS MEETING

Resolved: that the minutes of the meeting held on 1 September 2022 be approved as a correct record.

3. WORK PROGRAMME

The committee discussed the work programme.

Members raised the following suggestions for future items:

- A53/Basford Bank bus gate proposals – although this was an item for Health, Wellbeing and Environment Scrutiny Committee, Members felt there could be economic impacts from the proposals and asked whether a report could also be submitted to this committee.
- Local Plan – Members sought reassurance that the Local Plan would be submitted to the committee at the appropriate time which was confirmed.
- Cost of Living – Members suggested the regular updates on Town Deals and Future High Street funds include reference to any impacts of the cost of living

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crisis plus the implications for partnerships with Aspire who it was understood were reviewing the training and charitable arms of their business.

Resolved: that the items listed be discussed further at the scrutiny management meeting between the Chair and Vice Chair, Portfolio Holders and officers.

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4. PUBLIC QUESTION TIME

There were no members of the public present.

5. URGENT BUSINESS - WALLEYS QUARRY ODOUR ISSUES

In accordance with Section 100B (4) of the Local Government Act 1972 this item was considered as a matter of urgency due to the information being received after the agenda had been published.

The Chief Executive updated on Walleys Quarry as follows:

- The Environment Agency had the primary role in regulating the site to ensure there was no significant pollution arising from activity at the site; this was based on the definition of pollution from the Environmental Permitting (England and Wales) Regulations 2016
- The council had a role under the Environmental Protection Act 1990 to inspect and investigate any complaints relating to dust, steam, smell or effluvia from industrial, trade or business premises that might be prejudicial to health or a nuisance. In the event that a statutory nuisance was found then the council could serve an abatement notice.
- In 2021 the council received over 20k complaints regarding odour. This led to detailed investigations as to whether a statutory nuisance was occurring based on the following 5 assessment criteria –
 - Frequency
 - Intensity
 - Duration
 - Offensiveness
 - Location.

A statutory nuisance was found to be occurring and an Abatement Notice was served on WQL in August 2021. The notice required 2 things to take place – the odour to be abated within 5 months, and WQL to prevent any reoccurrence.

- In September 2021 WQL appealed the notice on 12 grounds, one of which was that Best Practicable Means (BPM) were being used to prevent the nuisance. The appeal meant that the timescale to abate the nuisance was paused and a legal process commenced; this was to have led to a trial in the Magistrates Court due to take place later in October 2022. The court process would have 3 possible outcomes – allow the appeal, dismiss the appeal or dismiss the appeal but vary the terms of the notice. The court would not impose any sanctions.
- Until court proceedings occurred a period of mediation took place. This eventually arrived at a settlement which meant WQL withdrew their appeal. This meant the Abatement Notice was now in place and legally enforceable. There was one minor amendment excluding the site area itself from the notice meaning the statutory nuisance element related to a defined area outside the site. This was a technical correction.

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- The agreement recognised that the plans currently in place on the site did represent Best Practicable Means but it was also recognised that this could change over time.
- There were various other requirements to the agreement including a commitment that the council and WQL engage constructively in good faith, WQL carry out specific community engagement measures including giving advance notice of activities that might give rise to odours, refreshing the Liaison committee and making recordings of these meetings publically available.
- WQL had agreed to pay the council £400k towards the council's costs in responding to the appeal plus £60k towards future monitoring activities.
- A graph was shown of the monthly exceedances of the World Health Organisation annoyance levels at the 4 air quality monitoring stations and the complaint numbers to the council. The levels of exceedances had greatly reduced over the timescale and complaints had reduced.
- A comparison of the situation over the past 18 months showed exceedances were at 34% in April 2021 compared to 2-4% in September 2022. The site now contained 80-85% of capped materials compared to 39% in May 2021.

Members welcomed the agreement and the acknowledgement by the operators that the landfill was the source of the odour. The community engagement was also a positive step.

Members congratulated the Chief Executive, Head of Environmental Health, Head of Legal and all other officers involved in the case for their hard work and success over the lengthy process. Members asked that their thanks be recorded.

Members raised the following points:

- Was there any feedback on the settlement details from the protest groups? The committee was advised that feedback was mostly via social media and was positive.
- Reassurance was sought that the measures in place would be effective and improve the situation. The Chief Executive responded that he had given a personal commitment to give his time and effort into the relationship with both WQL and the Environment Agency.
- Were there any solutions to lorries queueing outside the site? The Leader explained this was a County Council issue and a planning application had been submitted by WQL to allow lorries to wait on site, there had been some concerns raised but these should be addressed through planning conditions. It was hoped the application would be considered before the end of the year.
- Did the council have a robust process should odours occur? The committee was informed that the council's officers had experience in finding odours and investigating whether they were causing a statutory nuisance. The Abatement Notice being in place meant action could be taken should the Notice be breached. The council was in a strong position to engage with the operators and to take any action if needed.
- Concerns were raised about the regulatory role of the Environment Agency (EA). The Chief Executive advised he had written to the EA to query whether enough was done in response to the huge amount of public complaints about odours from Walleys Quarry and whether the regulatory framework was fit for purpose. The issue had also been taken up by A Bell, MP.
- What was the process when complaints were submitted? In this case there would be investigations as to whether there could be a Statutory Nuisance. If this did appear to be the case then data would be shared with WQL to try to understand any reasons and whether Best Practicable Means were in place.

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It would not be possible to prosecute if BPM were in place. Should the problems persist and BPM were not in place then a process would commence to discuss with the Secretary of State for the Environment regarding possible prosecution. The new arrangements around data and information sharing should mean there were no unexpected occurrences.

- What was the membership of the Liaison Committee? This was confirmed as representatives of the Borough Council, County Council, Parish Council, Environment Agency, WQL, representatives of the local community. The membership would be reviewed to ensure it was fit for purpose.

The Chair concluded the discussion by thanking officers again for their hard work.

Resolved: that the update be received and noted.

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**Councillor Gary White
Chair**

Meeting concluded at 8.10 pm