

**Date of meeting** Tuesday, 19th March, 2024  
**Time** 2.00 pm  
**Venue** Astley Room - Castle  
**Contact** Geoff Durham 742222



**NEWCASTLE  
UNDER LYME**

**BOROUGH COUNCIL**

Castle House  
Barracks Road  
Newcastle-under-Lyme  
Staffordshire  
ST5 1BL

# **Cabinet**

## **AGENDA**

- 1 APOLOGIES**
- 2 DECLARATIONS OF INTEREST**  
To receive declarations of interest from Members on items included in the agenda.
- 3 MINUTES OF PREVIOUS MEETINGS** (Pages 5 - 12)  
To consider the Minutes of the previous meeting.
- 4 WALLEYS QUARRY ODOUR ISSUES** (Pages 13 - 54)
- 5 NEWCASTLE TOWN DEAL DIGITAL INFRASTRUCTURE PROJECT UPDATE** (Pages 55 - 116)
- 6 ELECTRIC VEHICLE CHARGING POINTS FOR CASTLE CAR PARK** (Pages 117 - 122)
- 7 TREE AND BIODIVERSITY MANAGEMENT PLAN** (Pages 123 - 128)
- 8 CONTRACT AWARD FOR WAMMY FOOTBALL CHANGING ROOM DEVELOPMENT** (Pages 129 - 134)
- 9 SPORT ENGLAND SWIMMING POOL SUPPORT GRANT TO KIDSGROVE CIO** (Pages 135 - 138)
- 10 FORWARD PLAN** (Pages 139 - 144)
- 11 URGENT BUSINESS**  
To consider any business which is urgent within the meaning of Section 100B(4) of the Local Government Act 1972.
- 12 DISCLOSURE OF EXEMPT INFORMATION**

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

**13 CONTRACT AWARD FOR WAMMY FOOTBALL CHANGING ROOM DEVELOPMENT PART TWO - CONFIDENTIAL (Pages 145 - 148)**

**ATTENDANCE AT CABINET MEETINGS**

**Councillor attendance at Cabinet meetings:**

- (1) The Chair or spokesperson of the Council's scrutiny committees and the mover of any motion referred to Cabinet shall be entitled to attend any formal public meeting of Cabinet to speak.
- (2) Other persons including non-executive members of the Council may speak at such meetings with the permission of the Chair of the Cabinet.

**Public attendance at Cabinet meetings:**

- (1) If a member of the public wishes to ask a question(s) at a meeting of Cabinet, they should serve two clear days' notice in writing of any such question(s) to the appropriate committee officer.
- (2) The Council Leader as Chair of Cabinet is given the discretion to waive the above deadline and assess the permissibility of the question(s). The Chair's decision will be final.
- (3) The maximum limit is three public questions at any one Cabinet meeting.
- (4) A maximum limit of three minutes is provided for each person to ask an initial question or make an initial statement to the Cabinet.
- (5) Any questions deemed to be repetitious or vexatious will be disallowed at the discretion of the Chair.

**Members:** Councillors S Tagg (Chair), Sweeney (Vice-Chair), Heesom, Fear, Skelding and Hutchison

**Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.**

**Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.**

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## **Cabinet - 06/02/24**

The Mobile Monitoring Facilities had now been recalibrated and were therefore now providing a more accurate set of information.

There had been instances, in some weeks, where the annoyance threshold had been exceeded for a third of the week at MMF1. Also, for a long time, MMF9 had been the site giving the highest readings but it appeared to be giving way to MMF1, possibly due to changes in the topography of the site and wind direction.

The Council engaged with Walleys Quarry formally following the November-December data and Walleys had advised that they were doing more work around temporary capping and extending the gas management infrastructure.

Arrangements had been made for the Council's and Walleys Landfill experts to compare notes.

The Leader tasked if there was any indication when the third monitoring station (by Silverdale Pumping Station) would be returned which had been removed whilst works had been carried out by the water company.

The Chief Executive confirmed that the Environment Agency (EA) had identified a site but was not sure if that had come to fruition yet.

Councillor Fear stated that action needed to be seen coming from the EA. Cabinet had previously discussed closure notices and Councillor Fear felt that the EA should be asked for reasons why they were not going to issue a closure notice.

Councillor Sweeney stated that the third monitoring station should be put back as soon as possible and also, why not put one back onto the Fire Station site.

The Leader referred to the Special Council meeting on 14 February which included a Motion to suspend the Operators Licence and works to be carried out by the operator. The EA had been called upon to issue a closure notice which would end operations on the site, the Leader felt, therefore that the Motion did not go far enough and an amendment would be submitted.

The Leader proposed two additional recommendations, which are recorded at numbers (ii) and (iii) below.

- Resolved:**
- (i) That the contents of the update report be noted.
  - (ii) That, as a matter of urgency, officers be asked to take up with the Environment Agency the timescale for the return of the third monitoring station and to encourage the EA to make a public statement on that as soon as possible.
  - (iii) That it be noted that there is a motion from the Labour Group going to a Special Council Meeting on 14 February and that the Cabinet does not think that it goes far enough. Cabinet reiterated a call on the EA to issue a closure notice on Walleys Quarry.

[Watch the debate here](#)

## **4. TOWN CENTRE REGENERATION UPDATE**



The Leader introduced a report providing an update on progress made with Capital&Centric on York Place, the Midway Car Park and the Ryecroft projects and to make recommendations to Council to progress to the next stage. The car park, which was the key starting block on the Ryecroft was now taking place and would be completed by the end of the year.

The Portfolio Holder for Finance, Town Centres and Growth stated that the report was asking for permission to take the three schemes up to planning permission delivery. Once the new car park was completed the Midway would be closed. In addition, York Place would be stripped out and build around the existing frame. The development would create 47 units on York Place, 106 on the Midway and at least 55 on the Ryecroft.

Members welcomed the redevelopment stating that it would be good for the town and that this was the way to move forward.

The Leader proposed an amended recommendation (ii) and an additional recommendation (iii) as written below.

- Resolved:**
- (i) That the progress made to date by Capital&Centric on the York Place, Midway Car Park and The Ryecroft projects in Newcastle Town Centre be noted;
  - (ii) That, subject to Council approval of the funding as set out in Recommendation 3:
    - a. The Deputy Chief Executive, in consultation with the Portfolio Holder for Finance, Town Centres and Growth, and the Portfolio Holder for One Council, People and Partnerships, be authorised to progress legal agreements to enable the appointment of Capital&Centric under three Pre-Development Services Agreements (PDSA) for the development of the three schemes through a direct award under the Pagabo Development Management Framework.
    - b. That the Deputy Chief Executive, in consultation with the Portfolio Holder for Finance, Town Centres and Growth, and Portfolio Holder for One Council, People and Partnerships, be authorised to enable re-development works to commence on York Place, through Capital&Centric's PDSA, at a cost not exceeding £500,000 (the cost of which is included in the overall budget).
  - (iii) Recommends that Council approve expenditure of up to £2,649,000 to develop the three schemes to the end of RIBA Stage 3, and the submission of planning applications.

[Watch the debate here](#)

**5. REVENUE AND CAPITAL BUDGETS AND STRATEGIES 2024/25**

The Deputy Leader/Portfolio Holder for Finance, Town Centres and Growth presented the 2024/25 General Fund Revenue Budget and the 2024/25 Capital Programme to be presented to Full Council on 14 February.

This was an updated medium term financial strategy and the proposals to be recommended towards a balanced 2024/25 General Fund Revenue Budget along with the Capital Program for 2024/25 to 2025/26. It also included the flexible use of Capital Receipts Strategy (updated for 2023/24), the Capital Strategy for 2024/34, the Treasury Management Strategy for 2024/25, the Investment Strategy for 2024/25 and the Commercial Strategy for 2024/25 for approval by Full Council.

The Leader made reference to the Borough Growth Fund at paragraph 2.17, listing recommendations that would be put to Full Council on the 14<sup>th</sup> February.

The Cabinet considered the report and expressed their agreement with the recommendations put forward.

The Portfolio Holder for Finance, Town Centres and Growth advised members of an additional £0.138m that had been received following the Local Government settlement. £0.100m would be put into the General Fund reserve and £0.038m would be put into a Small Repairs Fund. Recommendation (xiii) was added below in respect of this.

- (i) That the Revenue and Capital Budgets as detailed in this report and in the report to Cabinet dated 16 January 2024 be recommended to Full Council for approval.
- (ii) That the updated Medium Term Financial Strategy 2024/25 to 2028/29 (Appendix 2) be recommended to Full Council for approval.
- (iii) That the strategy for ensuring a balanced revenue outturn position for 2023/24 be approved.
- (iv) That the calculation of the Council Tax base and the Council Tax increase to be proposed for 2024/25 of 1.99% per Band D equivalent property be recommended to Full Council for approval.
- (v) That the risk assessment at Appendix 3 and the Section 151 Officer's recommendation on the level of reserves and contingencies provisionally required to be maintained in 2024/25 be recommended to Full Council for approval.
- (vi) That the Borough Growth Fund Priorities for 2024/25 be approved.
- (vii) That the Capital Strategy (Appendix 5) for 2024/34 be recommended to Full Council for approval.
- (viii) That the Treasury Management Strategy (Appendix 6) for 2024/25 be recommended to Full Council for approval.
- (ix) That the Investment Strategy (Appendix 7) for 2024/25 be recommended to Full Council for approval.

- (x) That the Commercial Strategy (Appendix 8) for 2024/25 be recommended to Full Council for approval.
- (xi) That the Local Council Tax Reduction Scheme (Appendix 9) for 2024/25 be recommended to Full Council for approval.
- (xii) That the Council Tax Premiums Policy (Appendix 10) be recommended to Full Council for approval.
- (xiii) That the additional minimum funding guarantee of £0.138m, announced in the final local Government Settlement for 2024/25 be utilised as follows:
  - £0.100m be transferred to the General Fund Reserve in order to further enhance the Council's financial resilience and financial sustainability, as per the recommendation of the Value for Money element of the external auditors Annual Report for 2022/23.
  - That a Small Repairs Fund be established with a balance of £0.038m, and that this fund be utilised for repairs to Council owned footpaths, structures and playgrounds.

[Watch the debate here](#)

## 6. IT DATA CENTRE REPLACEMENT

The Leader introduced a report seeking Cabinet approval to retire the Council's on-premises Data Centres and to migrate to Microsoft Azure.

- Resolved:**
- (i) That the migration of the Councils applications, servers, and infrastructure to Microsoft Azure be approved.
  - (ii) That the Service Director for IT and Digital in consultation with the Portfolio Holder for One Council, People and Partnerships be authorised to enter into a contract by direct award with a suitably qualified Microsoft Azure partner to provide consultancy, training and support.

[Watch the debate here](#)

## 7. PROCUREMENT OF THE COUNCIL'S LONG TERM AGREEMENT INSURANCE PROVIDERS

The Deputy Leader introduced a report asking Cabinet to note the process for re-procurement of the Council's insurance providers and to authorise officers to approve the formal award contracts following completion of the procurement process.

- Resolved:**
- (i) That the procurement process adopted by officers, be noted;
  - (ii) That officers be authorised to award contracts via the Council's insurance broker Marsh Limited to the successful providers following a compliant procurement process utilising the 'Yorkshire Purchasing Organisation' (YPO) Insurance Placement DPS - 978 framework based on the 'Most Economically Advantageous Tender(s)'.

[Watch the debate here](#)

8. **PROCUREMENT OF STREETSCENE AND MOBILE MULTI FUNCTIONAL (MMF) VEHICLES & PLANT**

The Portfolio Holder for Sustainable Environment introduced a report seeking approval to replace the Council's current fleet of Streetscene 3.5 and 4.5 tonne vehicles and to procure additional ride on mowing equipment.

Electric vehicles were not an option in 2016 but would be this time. The current fleet generated approximately 51.8 tonnes of CO2 each year, the new fleet would be six electrically powered vehicles and six vehicles using the hydro treated vegetable oil. This would give a carbon reduction of 48.67 tonnes each year.

- Resolved:**
- (i) That the direct award process for 12 (3.5 & 4.5 tonne) pickup vehicles utilising the TPPL procurement framework, be approved.
  - (ii) That the procurement of ride on mowers through a mini competition process utilising the ESPO procurement framework, be approved.
  - (iii) That our Streetscene and two MMF 3.5 tonne pickups, be replaced by electrically driven vehicles.

[Watch the debate here](#)

9. **WAR AND WAR WIDOW(ER)S PENSION DISREGARD TOP UP**

The Portfolio Holder for Finance, Town Centres and Growth introduced a report notifying members of the continuing disregard of War Pensions and War Widow(er)s Pension in calculating Housing Benefit entitlement and Council Tax Reduction and to offer the report to Council for approval.

This process had been in existence for years but due to the extent of the years, nothing in writing could be found. The Council's Auditors had therefore requested that it be put in writing.

- Resolved:** That the report be noted and referred to Council to approve the disregard of War Pensions and War Widow(er)'s pensions:-
- (a) in full as income above the statutory £10.00 per week disregard in the calculation of Housing Benefit entitlement and
  - (b) in full as income in relation to the means tested assessment of Council Tax Reduction Scheme discount.

[Watch the debate here](#)

10. **CORPORATE ENFORCEMENT POLICY 2024**

The Leader introduced a report seeking approval of the Council's Corporate Enforcement Policy 2024 which had been updated to reflect current regulatory practices. A separate Planning Enforcement Policy was already in place.

Councillor Sweeney drew members' attention to paragraph 4.1 which outlined the reasons for the required update.

- Resolved:**
- (i) That the Corporate Enforcement Policy 2024 for the Borough as attached at Appendix A to this report, be approved.
  - (ii) That the Enforcement Policy 2024 be presented to Council for formal approval and adoption.

[Watch the debate here](#)

**11. FINANCIAL AND PERFORMANCE REVIEW REPORT - THIRD QUARTER 2023-24**

The Deputy Leader presented the Financial Position Balance Report highlighting major projects funding received. The revenue budget and capital budget at the end of the year would be balanced.

The Leader then introduced the Performance Monitoring Reports providing indicators of the performance of individual council services against set priorities:

- priority 1 – One Council delivering for Local People;
- priority 2 – A Successful and Sustainable Growing Borough;
- priority 3 – Healthy, Active and Safe Communities;
- priority 4 – Town Centres for All.

72% of indicators were meeting their targets. The Leader went through each set of priorities, inviting portfolio holders to comment.

- Resolved:** That the contents of the report and appendices be noted, and continue to monitor and challenge the Council's service and financial performance for this period.

[Watch the debate here](#)

**12. FORWARD PLAN**

The Leader went through the Cabinet Forward Plan.

- Resolved:** That the Forward Plan be received and noted.

[Watch the debate here](#)

**13. URGENT BUSINESS**

There was no Urgent Business.

**14. DISCLOSURE OF EXEMPT INFORMATION**

**Cabinet - 06/02/24**

**Resolved:-** That the public be excluded from the meeting during consideration of the following matter because it is likely that there will be disclosure of exempt information as defined in paragraphs contained within Part 1 of Schedule 12A of the Local Government Act, 1972.

**15. IT DATA CENTRE REPLACEMENT - CONFIDENTIAL APPENDIX**

Consideration was given to the confidential appendix relating to the IT Data Centre Replacement item.

**Resolved:** That the confidential appendix be received.

**Councillor Simon Tagg  
Chair**

Meeting concluded at 3.00 pm

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**CORPORATE LEADERSHIP TEAM'S**

**REPORT TO CABINET**

**19 March 2024**

**Report Title:**           Walleys Quarry – Odour Issues

**Submitted by:**        Chief Executive

**Portfolios:**            Sustainable Environment; One Council, People & Partnerships

**Ward(s) affected:**    All

<p><b><u>Purpose of the Report</u></b></p> <p>To update Cabinet on the latest position regarding the problematic odours in the Borough associated with Walleys Quarry.</p>	<p style="text-align: right;"><b><u>Key Decision</u></b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p><b><u>Recommendation</u></b></p> <p><b>Cabinet is recommended to:</b></p> <p>1.     <b>Note the contents of this update report.</b></p>	
<p><b><u>Reasons</u></b></p> <p>To ensure Cabinet is kept updated on the ongoing work regarding the problem odours associated with Walleys Quarry landfill.</p>	

**1.     Background**

- 1.1     For a number of years, parts of the borough have suffered from foul odours from the Walleys Quarry Landfill Site in Silverdale operated by Walleys Quarry Ltd, part of the RED Industries group of companies. The Environment Agency (EA) 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.
- 1.2     In March 2021, Council held an extraordinary meeting to receive the report of the Economy, Environment and Place Scrutiny Committee review into the Walleys Quarry issues, and to debate a motion demanding the immediate suspension of operations and acceptance of waste at the Walleys Quarry Landfill site.
- 1.3     Following extensive work, officers determined that the odours from the Walleys Quarry site amounted to a Statutory Nuisance and, on 13 August 2021, served an Abatement Notice on Walleys Quarry Ltd. (WQL). Following an appeal by Walleys Quarry Ltd, and a successful mediation process, His Honour District Judge Gregg

approved the settlement that the parties had reached and issued a court order upholding the Abatement Notice and dismissing WQL's appeal on 6 October 2022.

- 1.4** The Council continues to assess the prevalence of odours off site. If there are further instances of statutory nuisance identified which amount to a breach of the Abatement Notice, the Council's Enforcement Policy will guide the process to be followed [Reference: [Environmental Health enforcement policy – Newcastle-under-Lyme Borough Council \(newcastle-staffs.gov.uk\)](https://www.newcastle-staffs.gov.uk)]. This would determine what action the Council would take, and whether that would be formal or informal. Enforcement is usually considered sequentially but should the circumstances or nature of the breach be such, escalation direct to prosecution is possible. The Council would need to obtain the consent of the Secretary of State before it is able to prosecute an offence of breaching an abatement notice, as the site is permitted by the Environment Agency.
- 1.5** Officers maintain an ongoing dialogue with Walleys Quarry Ltd, and with other agencies involved with the issue. Cabinet has received monthly updates on the issues relating to the odours, and Council has also been regularly updated.

## **2. Complaint Data**

- 2.1** Below is a schedule of complaints received by the Council and by the Environment Agency over the last 3 months, on a weekly basis. Historical complaint data is attached to this report as Appendix 1.

	<b>Complaints to NuLBC</b>	<b>Complaints to Environment Agency</b>
<b>December 2023</b>		
4/12/23- 10/12/23	83	151
11/12/23- 17/12/23	48	180
18/12/23 -24/12/23	28	79
25/12/23-31/12/23	44	129
<b>January 2024</b>		
01/01/24 - 07/01/24	236	627
08/01/24 - 14/01/24	76	268
15/01/24 - 21/01/24	270	824
22/01/24 - 28/01/24	86	261
<b>February 2024</b>		
29/01/24 - 04/02/24	133	416
05/02/24 - 11/02/24	382	905
12/02/24 - 18/02/24	186	527
19/02/24 - 25/02/24	397	1264
26/02/24 - 03/03/24	333	990
<b>March 2024</b>		
04/03/24 - 10/03/24	217	694
11/03/24 – 17/03/24	99	



- 2.2 Officers highlight any odour events where 10 or more odour complaints have been recorded. There have been 28 odour events in the month of February, with only 1 day in the entire month recording less than 10 complaints.
- 2.3 The overall trend is for “spikes” in complaints when odours are prevalent. The highest number of complaints reported to the Council was on Saturday 24 February 2024 at 185 complaints.

### **NULBC Odour Assessments**

- 2.4 Officers have undertaken odour assessments during normal working hours and out of hours. The monitoring has been reactive to odour complaints and proactive where low odour dispersion is predicted.

The type of monitoring includes spot assessments (instantaneous assessments) and assessments made over a 5-minute period where the odour intensity is recorded every 10 seconds.

9 odour assessments were undertaken on 2 separate dates in February. All 9 assessments detected landfill related odour. 8 out of 9 assessments detected distinct or strong landfill related odour on:

- Wednesday 07 February 2024
- Saturday 24 February 2024

47 spot assessments were undertaken on 5 separate dates in February. Of these, 30 assessments detected landfill related odour.

27 out of the 30 assessments where landfill odour was detected reported distinct or strong odour on:

- Friday 02 February
- Wednesday 07 February
- Tuesday 13 February
- Saturday 24 February

### **NULBC Mobile Air Quality Monitoring (using Jerome monitor)**

- 2.5 Officers have monitored the levels of hydrogen sulphide within the community using the mobile Jerome monitor. The highest level of hydrogen sulphide recorded in the community was 29.56ppb at Maries Way on 24/02/24 at 09:26.

### **NULBC Actions**

- 2.6 It is disappointing to report that over this winter period there has been a continued deterioration in the odour conditions from Walleys Quarry as shown in the data reported.
- 2.7 Officers are awaiting the rectified air quality data for February published by the EA to compare the data against the findings from Officer assessments and the Jerome air quality data.
- 2.8 Following the Council's request to Walleys Quarry Limited to review the upturn in November and December and January odour, they have provided potential areas of

landfill gas emissions, along with the actions taken by WQL in these areas. This comprises the following areas:

- *Internal waste flanks and surfaces which is actioned through ongoing temporary capping and specifically following engineering works to the facility to install 5 new full-depth leachate wells and permanent capping of an area to the southeast of the facility, which although not at height could be completed ahead of schedule. Works to line this area is scheduled to be undertaken in mid-March.*

- *Operational area which is actioned through landfill gas extraction from operational areas through installation of 8 vertical wells in January, temporary horizontal wells due to be installed on 4<sup>th</sup> March and 3 pin wells installed in January. Confirmation that these wells have been commissioned.*

- *Gas collection which is actioned through completion of sector review relating to gas balancing. Gas collection has increased to 3600m<sup>3</sup>/hr.*

- *Expert review which has been agreed and commission by WQL and NuLBC to review all aspects of gas capture, collection and treatment at the facility, along with review of critical policies and procedures. This work has resulted in a site visit being undertaken followed by a meeting whereby a number of actions were agreed, including:*

- *to review the size of the tipping area;*
- *to establish a methodology for a H<sub>2</sub>S survey of the WQ facility;*
- *for a H<sub>2</sub>S survey to be undertaken.*

*This work is on-going.*

- *Landfill Gas Management which is actioned through the implementation of the Landfill Gas Management Plan and review of the Gas Utilisation Plant and associated infrastructure.*

*WQL conclude "Thus far, no one area has been identified as having impacted odour at the WQ boundary and its immediate environs. We will be continuing our investigations, including but not limited to, GUP performance and expert analysis."*

**2.9** As referenced above, the Council's landfill expert, and the landfill expert retained by Walleys Quarry Ltd have met in February 2024 to identify any additional actions which could be taken to resolve the situation. Following this, WQL have since reported that the western internal flank (facing Cemetery Road) which was previously clay capped is being covered with approximately 21,000m<sup>2</sup> of welded plastic geomembrane.

**2.10** Officer monitoring and assessments will continue to be undertaken in March, both in and out of office working hours to continue monitoring and to respond to the issues raised.

### **Action Following Special Council**

**2.11** Council received an update report at the meeting on 14 February in relation to the recent increase in odour. The following motion was agreed:

1. That odours emanating from Walley's Quarry Landfill represents a significant public health emergency for the residents of the borough.
2. That Full Council ask the relevant Scrutiny Committees to hold a public hearing, to receive impact statements from residents, stakeholders, including businesses, the operator, Staffordshire County Council, and local health bodies.

3. That Council endorses the decision made by the Cabinet on 16<sup>th</sup> January to encourage the Environment Agency (EA) to consider a Closure Notice and formally resolves to call on the EA to go further than 'suspending the operator's licence' and issue a Closure Notice.
4. That the Environment Agency be requested to publish immediately a full 365 days' air monitoring data set to examine impact against the chronic-term health guidelines where 1.4 ppb and 2µg/m<sup>3</sup> are applicable.
5. That Council continues to focus its energies on resolving foul odour from Walleys Quarry Landfill within its Abatement Notice powers as a priority and asks the Monitoring Officer, with appropriate legal support, to assess the most effective route, including Judicial Review, to securing an end to the community's suffering.
6. That the Monitoring Officer's advice is referred to the relevant Scrutiny Committees for consideration prior to consideration by Cabinet and Full Council.
7. That Council endorses the Cabinet budget proposal to increase the Walleys Quarry Legal Action Reserve to £300,000, with any further expenditure being a Full Council decision at the appropriate time.

## Scrutiny

- 2.12 With regard to Scrutiny, a report outlining a proposed approach to convening a 'Committee of Inquiry' was presented at Health, Wellbeing & Environment Scrutiny Committee on 26<sup>th</sup> February 2024, this can be found at [WQ Scrutiny post Council.pdf \(newcastle-staffs.gov.uk\)](#) the recommendations were endorsed. The Committee of Inquiry members have been selected and the scoping meeting is being arranged.

## Requests to Environment Agency

- 2.13 With regard to the two requests to the Environment Agency (to progress a closure notice and to release air quality data), the Council's Chief Executive wrote to the Chief Executive of the Environment Agency to communicate these requests. A copy of this letter and the response is attached as Appendix 2.

## Legal Options

- 2.14 With regard to point 6, there are two issues upon which members can be updated – position regarding Judicial Review and the position regarding the Council's Abatement Notice.
- 2.15 In terms of the Judicial Review, Council discussed two areas of potential review – the absence of EA action to suspend the operator's permit, and the decision by the Secretary of State not to initiate a Public Inquiry.
- 2.16 Since the Council debate the EA have suspended the operator's permit and specified works to be completed. These works were duly undertaken and the suspension lifted, with the EA signalling its commitment to using all available powers to address off site odours arising from the site. Whilst it may still be possible to undertake a Judicial Review concerning the absence of this action earlier, this is unlikely to impact future action and therefore bring about early resolution of the problem as per the agreed Council resolution.
- 2.17 Counsel's advice has been sought regarding other legal routes, including the viability of undertaking a Judicial Review of the Secretary of State's decision not to order a

Public Inquiry. Pending that advice, the Monitoring Officer has provided a preliminary assessment as set out in Appendix 5.

## Progressing the Abatement Notice

- 2.18** The Council secured an Abatement Notice in relation to the Walleys Quarry site and, if necessary, now has the power to take enforcement action in relation to odours from Walleys Quarry, subject to establishing a breach of the notice and obtaining Secretary of State's permission.
- 2.19** In order to consider any breaches of the Abatement Notice, it is useful to revisit the relevant requirements of the abatement notice. The requirements are detailed below, with the italic bold text reflects the requirements or text used within the abatement notice:
- 2.20** ***Satisfied of the existence of smell amounting to a statutory nuisance under section 79(1)(d)*** – This was considered against the issues of frequency, intensity, duration and offensiveness and location (the FIDOL factors). Such factors would have to be established in determining a breach of the notice. Although much of the monitoring relates to hydrogen sulphide, this is not the only odorous compound and any in relation to any future breaches, all smells could be considered.
- 2.21** ***Premises (including land) falling wholly or partially within the area encompassed by the boundary line identified on the attached plan reference NULBC02*** - An area of land where the nuisance exists was defined in order ensure that the notice was clear and specific in nature and to enable the Council and Walleys Quarry Ltd to be able to assess compliance. Any breach would have to be substantiated within this area.
- 2.22** ***to abate the nuisance*** - There are numerous different options abate the nuisance, which are not prescribed. Additionally, the Notice provides an ongoing responsibility for Walleys Quarry Ltd to comply with the terms of the abatement notice and not create or allow a further statutory odour nuisance. Any breach would have to demonstrate that the nuisance had not been abated.
- 2.23** Critically, under the law, whilst odours may exist off site at levels which could be considered a breach of the notice, that breach would be unenforceable (or a defence against creating a statutory nuisance) if the operator can show that Best Practical Means (BPM) are routinely deployed in the management of the site. Whilst the existence or not of BPM can be debated, it would be a court which would determine whether BPM was in place at the time of the breach.
- 2.24** At the time of the agreement, WQL operational plans were agreed to constitute BMP. It was also agreed that these would evolve with the site's development. It is evident that ongoing, consistent, good management at the landfill site is key to controlling off-site odour.
- 2.25** Officers have continued to use both air monitoring data, complaint data, and odour assessments to identify whether the Abatement Notice has been breached. At this stage, the officer assessment is that the recent odours could amount to a breach of the Abatement Notice, and the decision on next steps depends on how best to deploy the Council's powers to improve the experience of local residents. This is reflected in the sequential process for enforcement outlined below, and also in the risks associated with progressing enforcement action, particularly given that the Environment Agency is the primary regulator of this site and should reasonably be

relied upon to take all necessary enforcement action, negating the need for the Council to act.

- 2.26** The Council's enforcement policy involves a sequential approach to enforcement. In order to progress any enforcement action in relation to the Abatement Notice, there is a process that needs to be followed, and the thrust of any action taken in relation to the policy is to bring about an improvement in the odour for the community. The progress of the Council through this process is summarised in the table below:

Receipt of odour complaint	Complaints have increased in the winter of 2024, as set out in various reports to Cabinet and Council
Evidence gathering - around the odour event to establish elements of FIDOL	Officer assessments have been undertaken to establish the elements of FIDOL
Engagement with Operator	In addition to regular meetings with the operator, Officers have formally requested information from WQL about the situation in January and February, any remedial action that they intend to undertake.  The operator has responded to these requests, and are taking action following the joint meeting of experts.
Determining whether odours off site are consistent with a breach of the Abatement Notice	The decision in relation to the existence of a breach of the Abatement Notice is to be determined by Officers on the evidence obtained to date.
Consideration of BPM defence	Information through engagement with the operator will provide an initial view on BPM. An experts view on BPM at the time of the breach is necessary to determine whether a defence is held.
Operators Right to reply	This would be through a formal interview under the Police and Criminal Evidence Act
Collation of Case file	A case file would include all evidence and material in relation to the case. This would include witness statements, the Councils experts reports, the operators defence.
Review against Enforcement Policy	Upon completion of the case file a further review against the enforcement policy is undertaken to determine the most appropriate enforcement action.
Request permission from Secretary of State to take legal action	This stage is necessary in relation to this case, as the sites principal regulator is the Environment Agency. In order to proceed approval needs to be obtained from the Secretary of State. There is no fixed stage in the process where this has to be undertaken.

Cabinet / Council Decision	The decision in relation to the existence of a breach of the Abatement Notice is determined by Officers. There are many elements that would follow from making such a decision, which would need to be considered by members, such as the endorsement of a breach and approval to progress enforcement action, with the necessary approval of funding.
Commencement of Legal action	This stage would be through the issue of summons to WQ Ltd for a breach of the Abatement Notice.

**2.27** At the core of next steps are two issues – whether the action taken by the Environment Agency as the primary enforcement agent for this site have been successful in remedying the issues; and whether a defence of BPM exists. Where either of these are assessed to be in place it would not be in the public interest for the Council to pursue this matter further.

### Air Quality & Health

**2.28** The Council, Staffordshire County Council, and the Environment Agency have jointly funded a campaign of air quality monitoring utilising three static air monitoring stations. The Environment Agency manage and operate these air quality monitoring stations. Data from these stations has been routinely published weekly by the Environment Agency.

**2.29** Hydrogen sulphide levels have previously been reported and reviewed as part of this report and a full data set provided in Appendices. On 5 October, the Environment Agency provided an update, alerting the community to a problem with the reliability of the Hydrogen Sulphide (H<sub>2</sub>S) monitoring data collected at the monitoring stations. This update is available at the following link [Latest News | Engage Environment Agency \(engagementhq.com\)](https://www.engagementhq.com)

**2.30** On 19 October 2023, the EA calibrated the H<sub>2</sub>S analysers in MMF1 and MMF2. The EA have sufficient confidence in the raw data recorded for the week commencing 16 October 2023 to allow the EA to restart publishing data from MMF1 and MMF2.

**2.31** The latest H<sub>2</sub>S data is set out in the table below, defining the proportion of the time periods where H<sub>2</sub>S levels were above the WHO Odour Annoyance guideline of 7ug/m<sup>3</sup>.

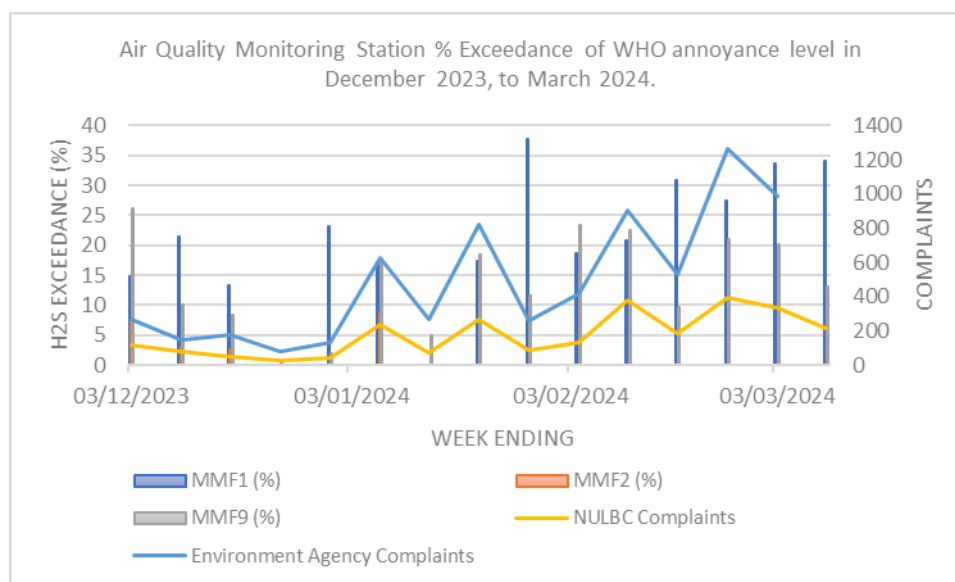
Time Period	Percentage of time the location recorded hydrogen sulphide concentrations above the WHO annoyance guideline level		
	MMF1 (%)	MMF 2 (%)	MMF 9 (%)
02 October – 08 October 2023			0
09 October – 15 October 2023			9.4
16 October – 22 October 2023	0.9	0	7.8
23 October – 29 October 2023	13.7	3.0	10.4
30 October – 5 November 2023	7.8	0.6	NR



6 November – 12 November 2023	8.9	1.5	5.6
13 November – 19 November 2023	6.9	0.6	3
20 November – 26 November 2023	3.3	2.9	14.33
27 November – 3 December 2023	14.9	7.4	26.2
4 December – 10 December 2023	21.4	3.0	10.2
11 December – 17 December 2023	13.4	2.68	8.33
18 December – 24 December 2023	0	0	0.6
25 December- 31 December 2023	23.21	0.3	1.9
01 January – 07 January 2024	16.9	8.7	17.7
08 January – 14 January 2024	0		5.0
15 January – 21 January 2024	17.4		18.4
22 January – 28 January 2024	37.8		11.6
29 January – 04 February 2024	18.6		23.4
05 February – 11 February 2024	20.8		22.6
12 February – 18 February 2024	30.8		9.6
19 February – 25 February 2024	27.4		21.1
26 February – 03 March 2024	33.7		20.1
04 March – 10 March 2024	34		13

NR= not reported

- 2.32** The complaint data and weekly % exceedance of the WHO annoyance level have been combined and is shown on the graph below. This shows good correlation between the two and it also shows an increasing trend for % exceedance of the WHO annoyance level and complaint numbers.



### MMF2 update

- 2.33** The EA were required to remove Mobile Monitoring Facility (MMF) 2 from Silverdale Pumping Station as the landowner planned to carry out construction works at the site. MMF 2 was removed on 8 January 2024, along with the electrical connection.

The EA have recently updated 'as the construction works have now been delayed until 2024, the landowner has agreed to allow us to use the site again'.

'To make progress as quickly as possible we have put MMF 4 on the site. MMF 4 will carry out the same air quality monitoring using the same parameters as MMF 2. There will be a short delay before MMF4 is operational as we will need to replace the electrical connection, which involves complying with the relevant electrical safety controls. We hope that MMF 4 will be recording monitoring data before the end of March 2024'.

'We will continue our work to identify a longer-term alternative site before Silverdale Pumping Station becomes unavailable again in September 2024'.

## **H2S Data Adjustment Method**

**2.34** The EA previously updated on the issue with H2S data being recorded by the analysers and the degree of uncertainty, providing the following detail.

- We have developed a method that could allow us to adjust historic H2S data. This method is the subject of an independent peer review. We anticipate that the group's findings will be finalised by the end of January 2024. We are regularly updating partners and the local community on this issue.
- We have engaged an independent third party accredited by the United Kingdom Accreditation Service (UKAS) to audit our 3 MMFs in the vicinity of Walleys Quarry. The audit will begin once they have obtained the necessary H2S calibration gas, which is not easily available commercially. This means there may be a short delay.

**2.35** On 09 February 2024, the EA issued a further update:

'In November 2023 we explained that we had developed a data adjustment method that could allow us to adjust historic hydrogen sulphide (H<sub>2</sub>S) data and that an independent peer review group was assessing this method. We told you that we expected the group's findings to be finalised by the end of January 2024. We know that this work has progressed well, and we anticipate that the report will be published shortly by the Department for Environment, Food & Rural Affairs' (Defra), whose Chief Scientific Adviser chairs the group. We will share a link to the peer review group's report on Engagement HQ, when it becomes available. Once we have seen the peer review group's report, we will be able to outline to our partners and the community our next steps in respect of the historic data. We will of course continue to update you with our progress.'

## **Environment Agency Regulatory and Enforcement Action**

**2.36** The Environment Agency has continued to provide updates on their regulatory activity on the Walleys Quarry Landfill and can be accessed here: <https://engageenvironmentagency.uk.engagementhq.com/hub-page/walleys-quarry-landfill>

**2.37** These updates reflect regular EA officer presence at the site to review progress with the Contain Capture Destroy strategy. The Compliance Assessment Reports (published on the [EA website](#)) provide further details of the site visits undertaken.

**2.38** The following table provides a summary of the published CAR (Compliance Assessment Report) forms since the last Cabinet report:



Date of Report	Date issued	CAR reference	Assessment	Compliance Score
13/12/23	21/12/24	DP3734DC-0485800	Site inspection (unannounced)	62
05/01/24	05/01/24	DP3734DC-0487498	CQA validation report for Cell 4 Sidewall (Upper)	0
11/01/24	25/01/24	DP3734DC-0490052	Site inspection (unannounced)	0
16/01/24	16/01/24	DP3734DC-0486955	CQA Plan for gas well installation	0
18/01/24	18/01/24	DP3734DC-0489307	Addendum to the leachate management action plan	0
01/02/24	12/02/24	DP3734DC-0492410	Site inspection (unannounced)	0

### Compliance Assessment Report – where non-compliance has been identified

**2.39** The Compliance Assessment Report dated 13 December 2023 identified 3 actions:

**Action 1:** Install any missing temporary clay capping over the top of Phases 4 and 5, and the flank of Phase 6 as required by the agreed CPP. The capping shall be to an appropriate standard. Deadline: 13 January 2024

**Action 2:** Carry out remedial measures required in areas identified in the GGS Survey as having elevated methane emission levels to prevent gas emissions causing off-site pollution. These shall include the installation of appropriate infrastructure, including but not limited to (i) pin wells, (ii) gas wells, and (iii) temporary capping. Deadline: 13 January 2024.

**Action 3:** Provide a report to the Environment Agency which sets out the actions taken to rectify fugitive landfill gas emissions reported in the GGS Survey and demonstrates the effectiveness of the actions taken. All monitoring shall be undertaken in accordance with the specification which appears in Environment Agency Guidance LFTGN 07. Deadline: 20 January 2024.

A total non-compliance score of 62 CCS points was issued.

**2.40** It was previously reported to Cabinet that the EA Officers conducted a site inspection on Wednesday 24 January 2024.

During that inspection the EA established that Walleys Quarry Ltd (WQL) had carried out works to reduce uncontrolled emissions from the operational area (tipping face), which were required following an inspection on 13 December 2023. The works consist of:

- vertical, deep gas wells which have been connected to the landfill gas management system.
- 3 pin wells that will be connected to the landfill gas management system by 28 January 2024.
- 2 horizontal gas wells along the southern boundary.
- A further horizontal well, which is due to be installed by 28 January 2024.

In addition, temporary clay capping is being installed on the top of Phase 4 and Phase 5, and on the western facing flank of Phase 6. Nine pin wells are being installed along the northern boundary of the site.

## Suspension Notice

**2.41** On 1 March 2024 the EA issued a Regulation 37 Suspension Notice to Walleys Quarry Ltd (WQL), which requires the company to take immediate action to remove the risk of serious pollution from fugitive emissions of landfill gas to the air causing significant and widespread offence to human senses due to odour.

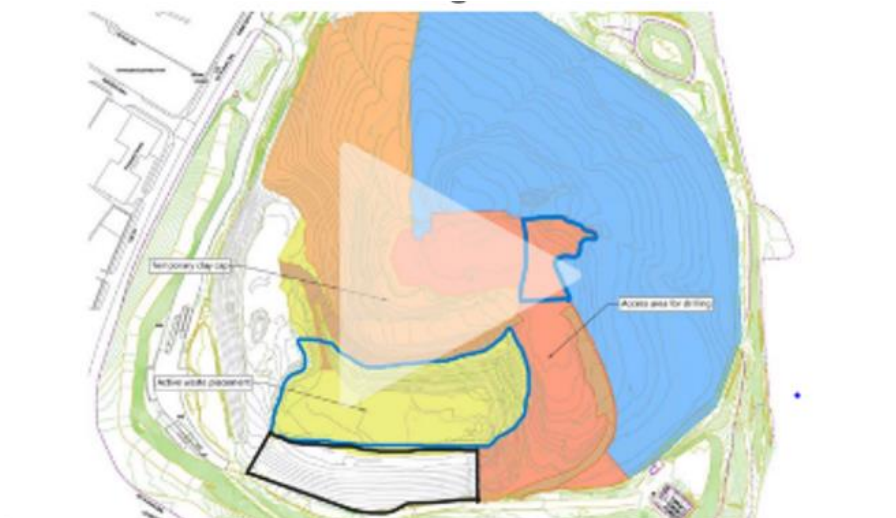
The Suspension Notice requires WQL to immediately stop the acceptance and disposal of waste, except for inert wastes which do not contribute to the odour.

The Suspension Notice also requires WQL to:

- **install additional gas extraction infrastructure in a key part of the operational area of the site by 17 March 2024;**
- **to connect it so that it extracts gas by 24 March 2024;**
- **to install additional temporary capping (using either compacted clay or geomembrane) in two other operational areas, by 24 March 2024.**

The work which is required is shown on the plan on the EA video:

- the gas infrastructure in the area edged in black
- the temporary capping is required in the two areas edged in blue;



'The EA acknowledged the calls for the EA to close the site. 'However, as we have previously explained, we will only issue a Closure Notice as a last resort, having exhausted all other enforcement and regulatory options. The purpose of this work is to reduce as quickly as possible fugitive emissions of landfill gas from these areas of the site and the impact experienced by the community. This is our priority and is best achieved in the short-term by using a Suspension Notice'.

'We recognise that some will be disappointed that we have stopped short of closing the site. We will continue to assess the situation and are keeping all regulatory options under review. We will continue to require WQL to comply with its environmental permit and implement all the measures necessary to manage emissions of landfill gas from the site'.

‘The Environment Agency continues to robustly regulate WQL, informed by our Contain, Capture and Destroy strategy. Areas where action is required by the Suspension Notice do not currently have the infrastructure in place to contain (capping) and capture (gas infrastructure) so that landfill gas can be sent to be destroyed. For more information on this please see our video [here](#)’

The EA state ‘there have been recent unacceptable increases in hydrogen sulphide emissions around Walleys Quarry, and in odour reports from local residents. We have every sympathy with the local community and remain committed to maintaining long-term improvements in emissions from the site.’

- 2.42** Walleys Quarry Limited issued a statement on 01 March 2024 in relation to the Suspension Notice. “This Suspension Notice is unnecessary and entirely inappropriate. It is self-serving in terms of seeking to justify the extreme scrutiny under which the Agency has placed Walleys Quarry over the past years in response to political pressure placed on it.

‘As the EA is fully aware, there is already extensive work under way involving gas infrastructure and capping at the site. This work was already in progress prior to the Agency issuing the Notice and was instigated and continues to be fully funded by Walleys Quarry Ltd who had developed the design and commenced works prior to the service of the Notice.

Walleys Quarry will be working to the withdrawal of this pointless Notice in the minimum timeframe possible as it continues as a responsible business to take all necessary safe and sustainable steps to ensure the eventual completion of the site.’

- 2.43** On 12 March, the Environment Agency released news that the EA has ‘assessed the action taken by Walleys Quarry Ltd (WQL) to comply with the Suspension Notice (‘the Notice’) issued on 1 March 2024. The Notice was issued to secure immediate action to remove the risk of serious pollution from fugitive emissions of landfill gas to the air causing significant and widespread offence to human senses due to odour. The Notice required WQL to install additional gas extraction infrastructure in a key part of the operational area; to connect it so that it extracts gas; and to install additional temporary capping in two other operational areas.

We are satisfied that the steps required have been completed and have therefore withdrawn the Notice. This means that WQL is no longer prohibited from accepting and disposing of non-inert waste specified in its permit.

The Environment Agency will now carefully assess the effectiveness of the action taken to reduce fugitive emissions of landfill gas from the areas of the site identified in the Notice. We will continue to require WQL to comply with its environmental permit and implement all the measures necessary to manage emissions of landfill gas from the site. All regulatory options remain under consideration.

WQL has notified the Environment Agency that it has appealed against the Suspension Notice to the Planning Inspectorate. We have informed the Planning Inspectorate that, following compliance, the Notice has been withdrawn’.

- 2.44** Walleys Quarry Limited issued a press statement on 12 March 2024 following the ‘withdrawal’ of the Suspension Notice:

‘Lifting this Suspension Notice is 100 per cent the correct decision. Imposing it just over a week ago was inappropriate and ill-conceived as we said at the time.

It appeared to serve only the interests of the Environment Agency in seeking to justify its over-zealous scrutiny of Walleys Quarry. While we welcome the inevitable decision to lift the Notice, we do not believe it was ever justified.

Today's Withdrawal Notice comes following a significant effort by Walleys Quarry to complete the onsite works already in progress at the time that the Notice was issued in the shortest timescale possible.

Following the lifting of the Notice, we will continue our work, implementing our extensive gas infrastructure and environmental engineering works in accordance with our focused, long running and ongoing programmes.

Ironically, the only effect this Notice has had is to disrupt works already in progress, impose works we still consider superfluous and led to the delay of the site's wider development and capping programme.

As always, we remain dedicated to working with our community and the regulators to provide a clean, responsible and sustainable operation for Newcastle-under-Lyme'.

- 2.45** On 18 March 2023 WQL issued a further press statement on the Suspension Notice maintaining its position that the issuing of any Notice was unnecessary and inappropriate. 'The key areas identified in the Notice of temporary capping and installation of sacrificial gas infrastructure was already underway or planned as part of ongoing site development'. Further detail is then given on the sacrificial gas infrastructure and temporary capping. WQL outline next steps which include: 'We are considering our next steps as the withdrawal of the Notice by the EA removes our opportunity to have an independent appeal hearing to the planning inspectorate'.  
The press statement on the WQL website is found [here](#).

### Walleys Quarry Update

- 2.46** With regard to the planned liaison committee, WQL advised 'Further to the Environment Agency's actions on 1st March 2024 and the service of a suspension notice, WQL management team must focus on the completion of our engineering works at the site in the minimum timeframe possible. This means that involvement in any outside activity will not be possible for us at this time. This extends to our planned involvement in the Liaison Group meeting scheduled for 5th March 2024 from which we must excuse ourselves and therefore postpone. In doing so we provide our assurances that the conditions of the section 106 agreement will continue to be met.'
- 2.47** On 15 March 2024 WQL published a 'Community Update' stating that: 'WQL continues to invest heavily in the landfill site. This includes major financial investment into a wide range of planned projects together with significant internal and external resources being ploughed in to support the busy programme of works we are engaged in at this time'. The update contains details regarding:
- Sidewall engineering
  - Permanent capping
  - Temporary capping
  - Temporary geomembrane capping to the western flanks
  - Gas infrastructure

The link to the Community Update on WQL website is found [here](#)

## **Key Performance Data**

- 2.48** Through the settlement agreement both Walleys Quarry Ltd and the Council have developed key performance indicators in relation to relevant data from each organisation. These key performance indicators are shown in Appendix 3 and 4.
- 2.49** The data from the Council covers the period from December 2023 to February 2024, and provides complaint numbers and officer assessments.
- 2.50** The data from Walleys Quarry Limited provides data on waste acceptance, odour management, landfill operations, landfill gas management, leachate management and information relating to the EA regulator as the primary regulator of the site. The KPI data and explanatory notes for January and February are contained in Appendix 4.

## **3. Proposal**

### **3.1 Cabinet is recommended to:**

- Note the contents of this update report.

## **4. Reasons for Proposed Solution**

- 4.1** To ensure Cabinet is kept updated of the ongoing work to address the issues associated with the odours from Walleys Quarry landfill and to keep under review opportunities to further action.

## **5. Options Considered**

- 5.1** To provide regular updates to Cabinet.

## **6. Legal and Statutory Implications**

- 6.1** Part III of the Environmental Protection Act 1990 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 or a nuisance. The Council is responsible for undertaking inspections and responding to complaints to determine whether 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).

- 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 the abatement notice.
- The Act provides powers in respect of a breach. If a person on whom an abatement notice is served, without reasonable excuse, contravenes or fails to comply with any requirement or prohibition imposed by the notice, they shall be guilty of an offence. If this is on industrial, trade or business premises shall be liable on conviction to an unlimited fine. It is a defence that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.

## **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 minimising this impact as soon as possible.

## **8. Financial and Resource Implications**

- 8.1 Dedicated officer resource has been allocated to continue the Council's work regarding Walleys Quarry Landfill.
- 8.2 From April 2023 there is £100k reserved for legal action associated with Walley Quarry landfill site.
- 8.3 From April 2024 there is a £300k reserve for works associated with Walleys Quarry Landfill site.
- 8.4 In the event that formal action is required, a separate report will be brought to full Council to approve additional funds.

## **9. Major Risks**

- 9.1 A GRACE risk assessment has been completed including the following main risks:
- Failure to achieve a reduction in odour levels;
  - Community dissatisfaction at odour levels;
  - The ability to take enforcement action against abatement notice;
  - Failure to evidence a breach of the abatement notice;
  - Secretary of State refuses permission to undertake prosecution proceedings.
- 9.2 Controls have been identified and implemented in order to control these risks; the main controls include:
- Provisions in settlement agreement ensures greater transparency for public;
  - Provisions in settlement agreement ensures regular meetings with Walleys Quarry which enable issues to be discussed;
  - Dedicated officer resource for Walleys Quarry work has been secured;
  - Continued air quality monitoring provision;
  - Robust procedure for investigating complaints with experienced officers;
  - Specialist expert advice maintained;



- Multi-Agency partnership working continues.

## 10. UN Sustainable Development Goals (UNSDG)



## 11. Key Decision Information

12.1 As an update report, this is not a Key Decision.

## 12. Earlier Cabinet/Committee Resolutions

13.1 This matter has been variously considered previously by Economy, Environment & Place Scrutiny Committee, Council and Cabinet on 21 April 2021, 9<sup>th</sup> June 2021, 7<sup>th</sup> July 2021, 21<sup>st</sup> July 2021, 8<sup>th</sup> September 2021, 13<sup>th</sup> October 2021, 3<sup>rd</sup> November 2021, 17<sup>th</sup> November, 1<sup>st</sup> December 2021, 12<sup>th</sup> January 2022, 2<sup>nd</sup> February 2022, 23<sup>rd</sup> February 2022, 23<sup>rd</sup> March 2022, 20<sup>th</sup> April 2022, 7<sup>th</sup> June 2022, 19<sup>th</sup> July 2022, 6<sup>th</sup> September 2022, 18<sup>th</sup> October 2022, 8<sup>th</sup> November 2022, 6<sup>th</sup> December 2022, 10<sup>th</sup> January 2023, 7<sup>th</sup> February 2023, 13<sup>th</sup> March 2023, 5<sup>th</sup> April 2023, 6<sup>th</sup> June 2023, 18<sup>th</sup> July 2023, 19<sup>th</sup> September 2023, 17<sup>th</sup> October 2023, 7<sup>th</sup> November 2023, 5<sup>th</sup> December 2023, 16<sup>th</sup> January 2024, 6<sup>th</sup> February 2024, 14<sup>th</sup> February 2024.

## 13. List of Appendices

- 13.1 Appendix 1. Historical Complaint data
- 13.2 Appendix 2. EA Letters
- 13.3 Appendix 3. NUL Key Performance Data
- 13.4 Appendix 4. WQL Key Performance Data

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## Appendix 1 – Historic Complaint Numbers

Week Ending	Complaints to NuLBC	Complaints to Environment Agency	Week Ending	Complaints to NuLBC	Complaints to Environment Agency
<b>2022</b>			25-Sep	14	79
09-Jan	73	352	02-Oct	13	58
16-Jan	258	1045	09-Oct	42	102
23-Jan	134	651	16-Oct	52	165
30-Jan	25	139	23-Oct	73	186
06-Feb	16	64	30-Oct	30	82
13-Feb	31	120	06-Nov	27	116
20-Feb	49	166	13-Nov	23	86
27-Feb	40	264	20-Nov	60	113
06-Mar	118	571	27-Nov	2	70
13-Mar	72	285	04-Dec	19	47
20-Mar	224	1126	11-Dec	43	163
27-Mar	412	1848	18-Dec	22	114
03-Apr	243	1072	25-Dec	12	45
10-Apr	132	895	<b>2023</b>		
17-Apr	156	752	01-Jan	11	39
24-Apr	65	310	08-Jan	12	32
01-May	49	213	15-Jan	13	25
08-May	39	193	22-Jan	47	118
15-May	35	160	29-Jan	51	149
21-May	43	134	05-Feb	13	66
29-May	20	81	12-Feb	26	115
05-Jun	27	169	19-Feb	7	39
12-Jun	42	234	26-Feb	3	15
19-Jun	25	263	05-Mar	7	13
26-Jun	28	208	12-Mar	12	74
02-Jul	9	54	19-Mar	23	63
09-Jul	4	34	26-Mar	19	56
16-Jul	14	72	02-Apr	51	103
23-Jul	21	52	09-Apr	45	152
30-Jul	12	93	16-Apr	11	64
06-Aug	22	124	23-Apr	48	101
13-Aug	32	133	30-Apr	148	278
21-Aug	11	79	07-May	50	150
28-Aug	12	89	14-May	53	164
04-Sep	10	30	21-May	147	320
11-Sep	9	64	28-May	90	210
18-Sep	13	83	04-Jun	24	43

Week Ending	Complaints to NuLBC	Complaints to Environment Agency
11-Jun	19	75
18-Jun	76	154
25-Jun	80	170
02-Jul	40	99
09-Jul	18	46
16-Jul	20	54
23-Jul	15	73
30-Jul	28	97
06-Aug	21	67
13-Aug	7	30
20-Aug	10	44
27-Aug	8	38
03-Sep	11	59
10-Sept	26	71
17-Sept	12	72
24-Sept	8	31
01-Oct	8	26
08-Oct	8	37
15-Oct	29	64
22-Oct	22	81
29-Oct	26	115
05-Nov	5	15
12-Nov	40	123
19-Nov	35	119
26-Nov	36	135
3-Dec	115	265
10-Dec	83	151
17-Dec	48	180
24-Dec	28	79
31-Dec	44	129
<b>2024</b>		
07-Jan	236	627
14-Jan	76	268
21-Jan	270	824
28-Jan	86	261
04-Feb	133	416
11-Feb	382	905
18-Feb	186	527
25-Feb	397	1264
03-Mar	333	990

Our ref:

Your ref:

Date: 27 February 2024



Mr Philip Duffy  
Chief Executive  
Environment Agency

Castle House  
Barracks Road  
Newcastle-under-Lyme  
Staffordshire  
ST5 1BL

cc Ian Jones

By e-mail only via [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

Dear Mr Duffy

### **Walleys Quarry, Newcastle under Lyme**

On 14<sup>th</sup> February Newcastle under Lyme Borough Council held a special meeting to consider the latest position on the foul odours emanating from the Walleys Quarry site, and to debate a motion concerning the next steps which the Council should take. This was the second special Council held on this matter, the first one being in March 2021 following a particular bad period of pollution from the site. It was not lost on members that almost three years had elapsed since that first meeting, and still this issue dominates so much of the work of the Council and remains a key issue of concern in the local community.

My purpose in writing to you today is to make you aware of the Council's position following that debate.

It will come as no surprise that the Council is exasperated with the ongoing situation and the associated annoyance and risk to health for local residents. It therefore resolved to support a call for the Environment Agency to use the powers available to it to issue a Closure Notice in order to bring forward resolution of the Walleys Quarry issue.

Additionally, arising from concern about the error in data collection from the Mobile Monitoring Facilities sited in the community around the quarry, Council resolved to call on the Environment Agency to publish immediately a full 365 days' air monitoring data set to examine the impact against the chronic-term health guidelines.

In addition to these specific actions for the Environment Agency the Council resolved to commission a public hearing on Walleys Quarry and its impacts on the community through its scrutiny committees and will, in due course, issue an invitation to the Agency to contribute to this.

I trust you will be able to give these matters due consideration and revert in due course

Yours sincerely

Martin Hamilton  
Chief Executive

[martin.hamilton@newcastle-staffs.gov.uk](mailto:martin.hamilton@newcastle-staffs.gov.uk)

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**Martin Hamilton**  
Chief Executive  
Newcastle-under-Lyme Borough Council  
Castle House  
Barracks Road  
Newcastle-under-Lyme  
Staffordshire  
ST5 1BL

**Our Ref: 21285**  
**Date: 07 March 2024**

Dear Mr Hamilton,

### **Walleys Quarry**

Thank you for your letter dated 27 February 2024 asking the Environment Agency to consider issuing a Closure Notice at Walleys Quarry, and seeking publication of ambient air quality monitoring data from February 2023 to February 2024. I assure you that I recognise the significance of the extraordinary meeting of Newcastle-under-Lyme Borough Council (NuLBC) on the 14 February 2024 and appreciate the frustration amongst both your members and the wider community.

I continue to give close attention to Walleys Quarry, including frequent updates to Minister Moore (Parliamentary Under-Secretary, Defra) and the local elected Member, Aaron Bell MP. I know my teams are also fully engaged in the local response, including through the Strategic Coordination Group. I acknowledge that the recent increases in hydrogen sulphide (H<sub>2</sub>S) emission levels, and consequent levels of odour, have caused concern for local residents and elected members. I agree that the impact on the community is unacceptable – I can assure you that the Environment Agency is committed to addressing the cause.

On 1 March 2024 we issued a Suspension Notice ('the Notice') to Walleys Quarry Ltd (WQL). The Notice required WQL to immediately stop the acceptance and disposal of waste, with the exception of inert wastes as these do not contribute to landfill gas emissions. The Notice requires WQL to:

- install additional gas extraction infrastructure in the operational area of the site by 17 March 2024;
- to connect the installed gas extraction infrastructure to the operational gas control system and place under extraction by 24 March 2024;
- and to install additional temporary capping in 2 other operational areas, by 24 March 2024.

We issued the Notice now because recent high levels of fugitive landfill gas emissions required immediate action to remove the risk of serious odour pollution.

I recognise that NuLBC have called for closure of the site rather than for operations to be suspended. A decision to issue a Closure Notice involves a lengthy and complex process. As we have explained publicly, we can legally only issue a Closure Notice as a last resort, having exhausted all other enforcement and regulatory options. I appreciate how close you and your teams have been to the issue and that all parties understand the complexities of early closure, as the landfill remains partially filled and has not reached the final levels favourable for restoration, nor those required by the planning permission. We continue to keep our position and WQL's response under review, and to consider what further regulatory

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action may be appropriate. As the Chief Executive of a public body, I know you will appreciate that it is not appropriate to pre-determine that specific action will be taken but I can assure you that my teams will continue to work alongside yours to secure a long term, robust and sustainable resolution.

We are not currently able to share the data in the form that you have requested. However, our available air quality monitoring data is accessible [here](#). As we explain there, H<sub>2</sub>S data obtained before September 2023, when we updated the H<sub>2</sub>S analyser calibration procedure, is likely to have a greater degree of uncertainty than previously understood.

You will be aware that the method the Environment Agency has developed to adjust the historic H<sub>2</sub>S data is subject to an independent peer review led by Defra's Chief Scientific Adviser. Whilst we expected the group to complete its work by the end of January 2024, there has been a short delay. We anticipate that the group's findings will be published by Defra soon. Once the report is published, we will share the findings with partners so that all can provide the best information, advice and support to the community as quickly as possible.

I hope you are reassured that we continue to work hard to require WQL to reduce the risk of emissions and return longer-term to the much-improved performance seen before September 2023.

If you have any specific questions, I suggest that you address them to Andrew Hitchings, Walleys Quarry Project Executive, who will be happy to speak to you. You can contact Andrew via email at [Andrew.Hitchings@environment-agency.gov.uk](mailto:Andrew.Hitchings@environment-agency.gov.uk).

Yours sincerely,



**Philip Duffy**  
Chief Executive, Environment Agency

**Appendix 2 – NUL Key Performance Indicators**

NULBC		Information	Measurement	MMF	December 2023	January 2024	February 2024
KPI 1	COMPLAINTS	Complaints reported to NULBC	Number		248  Number of unique properties reporting complaints = 112  Rating 0 = 0 complaints Rating 1 = 1 complaints Rating 2 = 4 complaints Rating 3 = 33 complaints Rating 4 = 45 complaints (18.1%) Rating 5 = 72 complaints (29.0%) Rating 6 = 93 complaints (37.5%)  % of complaints reporting odour entering the property = 187 (75.4%) % of complaints reporting health effects = 184 (74.2%)	736  Number of unique properties reporting complaints = 319  Rating 0 = 1 complaints Rating 1 = 1 complaints Rating 2 = 8 complaints Rating 3 = 72 complaints Rating 4 = 111 complaints (15.1%) Rating 5 = 208 complaints (28.3%) Rating 6 = 335 complaints (45.5%)  % of complaints reporting odour entering the property = 574 (78%) % of complaints reporting health effects = 516 (70.1%)	1232  Number of unique properties reporting complaints = 484  Rating 0 = 0 complaints Rating 1 = 1 complaints Rating 2 = 25 complaints Rating 3 = 99 complaints Rating 4 = 169 complaints (13.7%) Rating 5 = 335 complaints (27.2%) Rating 6 = 603 complaints (48.9%)  % of complaints reporting odour entering the property = 1004 (81.5%) % of complaints reporting health effects = 908 (73.7%)
KPI 2		Complaints reported (daytime 07:00-23:00)	Number		219	625	989
KPI 3		Complaints reported (night-time 23:00-07:00)	Number		29	111	243
KPI 4		Highest number of complaints during the period	Date (number of complaints)		05/12/23 (27 complaints)	18/01/24 (142 complaints)	24/02/24 (185 complaints)

KPI 5	AIR QUALITY	Percentage exceedance Odour Annoyance Guideline (Hydrogen Sulphide 30-minute average)	%	MMF1	22	21	24
				MMF2	3	9*	NR
				MMF9	8	14	19.3
KPI 6		Monthly Average H <sub>2</sub> S	ug/m3 over the month	MMF1	4.7	5.2	6.3
				MMF2	1.5	3.1*	NR
				MMF9	4.3	8.2	15
KPI 7	H <sub>2</sub> S PEAK LEVEL	Level measured over a 5-minute period Date & Time	ug/m3	MMF1	159.33 ug/m3 (11/12/23 @21:25)	156.12 ug/m3 (02/01/24 @06:30)	500.26 ug/m3 (27/02/24 @05:55)
				MMF2	108.85 ug/m3 (11/12/23 @17:00)	142.43 ug/m3 (07/01/24 @07:55)	NR
				MMF9	417.25 ug/m3 (05/12/23 @ 20:00)	456.34 ug/m3 (04/01/24 @20:10)	796.02 ug/m3 (24/02/24 @22:05)
KPI 8	OFFICER ASSESSMENTS	Odour Rating - Officer odour assessment (5 minute)	Max Odour Rating		27 assessments 11 assessments detected landfill related odour of which 3 assessments had a maximum rating of 4 (05/12/23, 13/12/23 & 13/12/23)	35 assessments 29 assessments detected landfill related odour of which 17 assessments had a maximum rating of 4 (03/01/24, 05/01/24, 06/01/24, 07/01/24, 12/01/24, 18/01/24)	9 assessments 9 assessments detected landfill related odour of which 8 assessments had a rating of 4 and above (07/02/24, 24/02/24)

\*Data from 01 January to 08 January 2024



# WALLEYS QUARRY KPI REPORT



Date of Report: 5-3-24			
Landfill Operations	Information	Measurement	Summary and Actions (Additional Document Reference as applicable)
<b>KPI 1</b>	<b>WASTE ACCEPTANCE</b>	Non-conformance raised with waste operator	CCS score(s) including summary and actions.
		No of loads inspected.	each
<b>KPI 2</b>			0 Non-conformance raised with operator. 0 CCS scores received
			1062 loads received. 1062 loads inspected.
Landfill Operations	Information	Measurement	Summary and Actions (Additional Document Reference as applicable)
<b>KPI 3</b>	<b>ODOUR MANAGEMENT</b>	Non-conformance raised with waste operator	CCS score(s) including summary and actions.
		No of odour tours	
<b>KPI 4</b>		No of odour tours where odour detected off site	
			0 Non-conformance raised with operator. 0 CCS scores received. 0 non conformances identified.
			66 tours  14 external odours.
Landfill Operations	Information	Measurement	Summary and Actions (Additional Document Reference as applicable)
<b>KPI 5</b>	<b>ACTIVE TIPPING AREA</b>	Operational Surface area total	m <sup>3</sup>
<b>KPI 6</b>	<b>ACTIVE TIPPING AREA</b>	Active tipping area	m <sup>3</sup>
			127,066 m <sup>2</sup> 24,710 m <sup>2</sup>
Landfill Operations	Information	Measurement	Summary and Actions (Additional Document Reference as applicable)
<b>KPI 7</b>	<b>CAPPING OF OPERATION AREA</b>	Temporary capping	m <sup>3</sup>
		Permanent capping	m <sup>3</sup>
			Temporary Capping 42,450m <sup>2</sup> Permanent Capping 55,700m <sup>2</sup> Total Capped area 98,150 m <sup>2</sup>
Landfill Operations	Information	Measurement	Summary and Actions (Additional Document Reference as applicable)
<b>KPI 8</b>	<b>LANDFILL GAS MANAGEMENT</b>	Surface & Gas infrastructure emission surveys	Number of remaining matters open in the month
<b>KPI 9</b>	<b>LANDFILL GAS MANAGEMENT</b>	Concentration of Hydrogen Sulphide in 'raw' bulk gas	ppm
			0 2,072 ppm – recorded from CLP H <sub>2</sub> S GUP input data

<b>KPI 10</b>	<b>LANDFILL GAS MANAGEMENT</b>	Landfill Gas capture rate (monitored at the GUP)	m3/hr	3,347 m3/hr - averaged across period.
<b>KPI 11</b>	<b>LANDFILL GAS MANAGEMENT</b>	Appendix A LGMP Gas Management Plan (live document)	Progress including summary and actions	See explanatory notes
Landfill Operations		<b>Information</b>	<b>Measurement</b>	<b>Summary and Actions (Additional Document Reference as applicable)</b>
<b>KPI 12</b>	<b>LEACHATE MANAGEMENT ACTION PLAN</b>	Actions (13 actions)	Progress including summary and actions	See explanatory notes.
Landfill Operations		<b>Information</b>	<b>Measurement</b>	<b>Summary and Actions (Additional Document Reference as applicable)</b>
<b>KPI 13</b>	<b>PRIMARY REGULATOR</b>	Compliance Assessments Visits	Number undertaken for which CAR form issued to operator	Two visits within the period:  1 <sup>st</sup> February DP3734DC/0492410  15 <sup>th</sup> February DP3734DC/0496622.
<b>KPI 14</b>	<b>PRIMARY REGULATOR</b>	Compliance Assessments Visits	Number Undertaken where a CCS score is raised with operator, including summary and actions	1 regulatory compliance assessments undertaken which resulted in a compliance assessment score – see explanatory notes.
<b>KPI 15</b>	<b>PRIMARY REGULATOR</b>	Compliance Assessments Visits	Number Undertaken where no CCS score is raised with operator, including summary and actions	1 regulatory compliance assessments undertaken which resulted in 0 compliance assessment scores

## Date of Explanatory Notes: January 2024

### KPI 1 and KPI 2 Waste Acceptance

No non-conformances have been received from the regulator within the period.

1655 loads inspected within the period, with 0 loads rejected.

### KPI 3 and KPI 4 Odour Management

No non-conformances have been received from the regulator within the month, with two site regulatory inspections/reviews undertaken. CAR reports for site visits confirm an offsite odour, detected by Environment Agency officers. This was not reported to WQL contemporaneously with the observation. The Agency assessments cover a wide scope of permit conditions including engineering, containment, operational activities, landfill gas management, odour and pest management.

55 odour tours conducted by WQL, with 53 reflecting no odours experienced. Contemporaneously with these odour tours, checks on the gas collection and treatment infrastructure, site engineering and operations and local weather factors were reviewed to ensure all appropriate actions were being undertaken. No non-conformances were identified during these times. And all appropriate actions were being taken.

### KPI 5 and 6 Active Tipping Area

The overall current landfill 127,066m<sup>2</sup>. The active area is confined to Cell 2. The current active area remains contained and measures some 30,034 m<sup>2</sup>. This is aligned with the approved capping and phasing plan, as agreed with the Environment Agency. The active operational area is progressively covered during the day to minimise the time that fresh waste remains uncovered. This is in line with best practice and our operating techniques. We retain healthy stockpiles of cover material to facilitate this progressive covering.

### KPI 7 Temporary Capping

Currently, 35,658 m<sup>2</sup> of the surface area of the facility is temporarily capped, either using a high specification, low permeability engineering clay. This is in line with the capping and phasing plan for the facility, as agreed with the Environment Agency and an increase on the previous period. Maintenance works continue to clay capped areas in line with the agreed (by the Environment Agency) CQA (Construction Quality Assurance) specifications.

### Permanent Capping

Relating to permanent capping, 55,700m<sup>2</sup> of the surface area of the facility is capped, by the installation of a low permeability geomembrane. This is in line with the capping and phasing plan for the facility, as agreed with the Environment Agency with all permanent capping works being conducted under the process of Construction Quality Assurance (CQA). Subsequently, on completion of the

permanent capping works, cover soils continue to be imported to the facility as part of the site restoration process.

### KPI 8 - 10 Landfill gas management

WQL continues to undertake the extensive regime of surface emission surveys, as agreed with the Environment Agency. A, FID survey was conducted in January 2024.

The concentration of H<sub>2</sub>S at the facility remains within expected limits and in January, averaging 2,292 ppm at the Gas Utilisation Plant (GUP), as measured by CLP Envirogas Ltd and representing a reduction on the previous period.

The volume of gas captured at the facility remains within expected limits, at 3,130m<sup>3</sup>/hr, comparable with the previous period. The flow rate has remained high and consistent across the period. WQL continue to review this position and drive the gas management contractor, CLP Envirogas Ltd, to ensure that gas collection is continually reviewed to assess relevant developments that can be made.

### KPI 11 Landfill Gas Management - Landfill Gas Management Plan

The LFGMP continues to be developed by WQL and adopted by CLP Envirogas Ltd. From Appendix A of this document, three actions remain open and in progress, namely:

Site Specific Balancing Plan – this is being developed by WQL, in conjunction with the Environment Agency and CLP Envirogas Ltd. A draft has been received and is being reviewed, prior to agreement and submission to the Environment Agency.

Regular monitoring, requested by the Environment Agency of CLP Envirogas Ltd continues and is likely to remain in place.

Installation of horizontal wells in active operational areas continues as the site develops, in line with the approved LFGMP.

The LFGMP has been reviewed and issued to the Environment Agency, with comments received from the regulator on 2 June 2023 following the submission on 15 January 2023. The draft LFGMP has been discussed with NuLBC and was submitted to the Environment Agency on 14 August 2023 for approval, with further comments received 6 October. A meeting to discuss the LFGMP was undertaken on 18 October 2023 with the EA, with a further submission made 22 January 2023. Discussions have been held with the EA to facilitate approval of the LFGMP. Further comments received by WQL for consideration, which should see approval of the plan.

The EA guidance relating to landfill operations has been updated and varies significantly in key areas. This has the potential to impact the approval of the LFGMP amongst other plans submitted to the EA by WQL which it is seeking approval. A request to clarify the position and the potential on-impact has been made to the EA.

## KPI 12 Leachate Management Plan

In relation to the LMP, an additional 5 leachate wells have been successfully installed into the WQ facility. These have been installed utilising steel casing, increasing the robustness of the installed infrastructure to settlement and compaction of waste. replacement leachate wells at the facility.

A pump-trial plan, agree to be conducted as part of the LMP submission has been agree with the EA and will be commenced through Q1 2024.

## KPI 13- 15

### **11 January 2024 – CAR report 0490052**

General site visit undertaken. No compliance scores received:

An odour was alleged to have been detected by the EA on both 5<sup>th</sup>&6<sup>th</sup> January 2024, adjacent to the site. This was not communicated to WQL until they attended site on 11<sup>th</sup> January 2024 and was confirmed in their CAR report received 25<sup>th</sup> January 2024.

No CAR form for the visit 24<sup>th</sup> January 2024 has been received to date.

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Date of Report: 2-2-24			
Landfill Operations	Information	Measurement	Summary and Actions (Additional Document Reference as applicable)
<b>KPI 1</b>	<b>WASTE ACCEPTANCE</b>	Non-conformance raised with waste operator	CCS score(s) including summary and actions.
		No of loads inspected.	each
<b>KPI 2</b>			0 Non-conformance raised with operator. 0 CCS scores received
			1655 loads received. 1655 loads inspected.
Landfill Operations	Information	Measurement	Summary and Actions (Additional Document Reference as applicable)
<b>KPI 3</b>	<b>ODOUR MANAGEMENT</b>	Non-conformance raised with waste operator	CCS score(s) including summary and actions.
<b>KPI 4</b>		No of odour tours	
		No of odour tours where odour detected off site	
			0 Non-conformance raised with operator. 0 CCS scores received. 0 non conformances identified.
			55 tours
			2 external odours.
Landfill Operations	Information	Measurement	Summary and Actions (Additional Document Reference as applicable)
<b>KPI 5</b>	<b>ACTIVE TIPPING AREA</b>	Operational Surface area total	m <sup>3</sup>
<b>KPI 6</b>	<b>ACTIVE TIPPING AREA</b>	Active tipping area	m <sup>3</sup>
			127,066 m <sup>2</sup>
			30,034 m <sup>2</sup>
Landfill Operations	Information	Measurement	Summary and Actions (Additional Document Reference as applicable)
<b>KPI 7</b>	<b>CAPPING OF OPERATION AREA</b>	Temporary capping	m <sup>3</sup>
		Permanent capping	m <sup>3</sup>
			Temporary Capping 35,658m <sup>2</sup>
			Permanent Capping 55,700m <sup>2</sup>
			Total Capped area 91,358 m <sup>2</sup>
Landfill Operations	Information	Measurement	Summary and Actions (Additional Document Reference as applicable)
<b>KPI 8</b>	<b>LANDFILL GAS MANAGEMENT</b>	Surface & Gas infrastructure emission surveys	Number of remaining matters open in the month
<b>KPI 9</b>	<b>LANDFILL GAS MANAGEMENT</b>	Concentration of Hydrogen Sulphide in 'raw' bulk gas	ppm
			0
			2,292 ppm – recorded from CLP H <sub>2</sub> S GUP input data

<b>KPI 10</b>	<b>LANDFILL GAS MANAGEMENT</b>	Landfill Gas capture rate (monitored at the GUP)	m3/hr	3,130 m3/hr - averaged across period
<b>KPI 11</b>	<b>LANDFILL GAS MANAGEMENT</b>	Appendix A LGMP Gas Management Plan (live document)	Progress including summary and actions	See explanatory notes
Landfill Operations		<b>Information</b>	<b>Measurement</b>	<b>Summary and Actions (Additional Document Reference as applicable)</b>
<b>KPI 12</b>	<b>LEACHATE MANAGEMENT ACTION PLAN</b>	Actions (13 actions)	Progress including summary and actions	See explanatory notes.
Landfill Operations		<b>Information</b>	<b>Measurement</b>	<b>Summary and Actions (Additional Document Reference as applicable)</b>
<b>KPI 13</b>	<b>PRIMARY REGULATOR</b>	Compliance Assessments Visits	Number undertaken for which CAR form issued to operator	Two visits within the period:  11 <sup>th</sup> January DP3734DC/0490052  24 <sup>th</sup> January No CAR issued to date.
<b>KPI 14</b>	<b>PRIMARY REGULATOR</b>	Compliance Assessments Visits	Number Undertaken where a CCS score is raised with operator, including summary and actions	0 regulatory compliance assessments undertaken which resulted in a compliance assessment score – see explanatory notes.
<b>KPI 15</b>	<b>PRIMARY REGULATOR</b>	Compliance Assessments Visits	Number Undertaken where no CCS score is raised with operator, including summary and actions	2 regulatory compliance assessments undertaken which resulted in 0 compliance assessment scores



## Date of Explanatory Notes: February 2024

### KPI 1 and KPI 2 Waste Acceptance

No non-conformances have been received from the regulator within the period.

1062 loads inspected within the period, with 0 loads rejected.

### KPI 3 and KPI 4 Odour Management

No non-conformances have been received from the regulator within the month, with two site regulatory inspections/reviews undertaken. The Agency assessments cover a wide scope of permit conditions including engineering, containment, operational activities, landfill gas management, odour and pest management.

66 odour tours conducted by WQL, with 52 reflecting no odours experienced. Contemporaneously with these odour tours, checks on the gas collection and treatment infrastructure, site engineering and operations and local weather factors were reviewed to ensure all appropriate actions were being undertaken. No non-conformances were identified during these times. And all appropriate actions were being taken.

### KPI 5 and 6 Active Tipping Area

The overall current landfill 127,066m<sup>2</sup>. The active area is confined to Cell 2. The current active area remains contained and measures some 24,710 m<sup>2</sup>. This is aligned with the approved capping and phasing plan, as agreed with the Environment Agency. The active operational area is progressively covered during the day to minimise the time that fresh waste remains uncovered. This is in line with best practice and our operating techniques. We retain healthy stockpiles of cover material to facilitate this progressive covering.

### KPI 7 Temporary Capping

Currently, 42,450 m<sup>2</sup> of the surface area of the facility is temporarily capped using a high specification, low permeability engineering clay. This is in line with the capping and phasing plan for the facility, as agreed with the Environment Agency, and an increase in area capped on the previous period. Maintenance works continue to clay capped areas in line with the agreed (by the Environment Agency) CQA (Construction Quality Assurance) specifications.

### Permanent Capping

Relating to permanent capping, 55,700m<sup>2</sup> of the surface area of the facility is capped, by the installation of a low permeability geomembrane. This is in line with the capping and phasing plan for the facility, as agreed with the Environment Agency with all permanent capping works being conducted under the process of Construction Quality Assurance (CQA). Subsequently, on completion of the permanent capping works, cover soils continue to be imported to the facility as part of the site restoration process.

## KPI 8 - 10 Landfill gas management

WQL continues to undertake the extensive regime of surface emission surveys, as agreed with the Environment Agency. A, FID survey was conducted in January 2024.

The concentration of H<sub>2</sub>S at the facility remains within expected limits and in January, averaging 2,072 ppm at the Gas Utilisation Plant (GUP), as measured by CLP Envirogas Ltd and representing a reduction on the previous period.

The volume of gas captured at the facility remains within expected limits, at 3,347m<sup>3</sup>/hr, comparable with the previous period. The flow rate has remained high and consistent across the period. WQL continue to review this position and drive the gas management contractor, CLP Envirogas Ltd, to ensure that gas collection is continually reviewed to assess relevant developments that can be made.

## KPI 11 Landfill Gas Management - Landfill Gas Management Plan

The LFGMP continues to be developed by WQL and adopted by CLP Envirogas Ltd. From Appendix A of this document, three actions remain open and in progress, namely:

Site Specific Balancing Plan – this is being developed by WQL, in conjunction with the Environment Agency and CLP Envirogas Ltd. A draft has been received and is being reviewed, prior to agreement and submission to the Environment Agency.

Regular monitoring, requested by the Environment Agency of CLP Envirogas Ltd continues and is likely to remain in place.

Installation of horizontal wells in active operational areas continues as the site develops, in line with the approved LFGMP.

The LFGMP has been reviewed and issued to the Environment Agency, with comments received from the regulator on 2 June 2023 following the submission on 15 January 2023. The draft LFGMP has been discussed with NuLBC and was submitted to the Environment Agency on 14 August 2023 for approval, with further comments received 6 October. A meeting to discuss the LFGMP was undertaken on 18 October 2023 with the EA, with a further submission made 22 January 2023. Discussions have been held with the EA to facilitate approval of the LFGMP. Further comments received by WQL for consideration, which should see approval of the plan.

## KPI 12 Leachate Management Plan

In relation to the LMP, an additional 5 leachate wells have been successfully installed into the WQ facility. These have been installed utilising steel casing, increasing the robustness of the installed infrastructure to settlement and compaction of waste. replacement leachate wells at the facility.

A pump-trial plan, agree to be conducted as part of the LMP submission has been agreed with the EA and will be commenced through Q1 2024.

KPI 13- 15

**1<sup>st</sup> February 2024 – CAR report 0492410**

General site visit undertaken. No compliance scores received:

**15<sup>th</sup> February 2024 – CAR report 0496622**

General site visit undertaken. C2 31 points non-compliance score received.  
No remedial actions following on from GGS Survey.

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## **Appendix 5 – Update report re. Judicial Review of Public Enquiry**

### **Introduction**

1. I have been asked as Monitoring Officer to provide an update on the possibility of a Judicial Review (“JR”) for a Public Inquiry the decision by Rt Hon Rebecca Pow MP Parliamentary Under Secretary of State (Minister for Nature), refusing to undertake a public enquiry into the failure of the EA to regulate the site and protect surrounding environment, and my thoughts are as follows;

### **The JR process**

2. JR is a challenge to the *way in which a decision has been made*. It is not really concerned with the conclusions of that process and whether those were ‘right’, as long as the law has been correctly applied and the right procedures have been followed.
3. The Secretary of State (HM Govt) qualifies as a public decision- maker whose decisions are capable of being subject to JR.
4. If a JR is successful, the court will not substitute what it thinks is the ‘correct’ decision. This may mean that the public body will be able to make the same decision again, so long as it does so in a lawful way. Appeal, complaint, or ombudsman processes may, in certain circumstances provide alternative routes to remedy.
5. The court’s view is that litigation should be a last resort. If alternative procedures are available, offer more or less the same solution and have not been used, a judge can refuse to hear a judicial review or refuse to grant a remedy.
6. In relation to the Walleys Quarry matter redress via complaint, and ombudsman have both been sought by the Council without success. JR’s raised by members of the community have also been unsuccessful.

### **The Application Procedure**

7. A JR claim form must be filed promptly and in any event not later than three months after the grounds upon which the claim is based first arose (CPR 54.1 (1)). The process around progressing a JR involves three stages:

**Step 1 - The letter before claim** – This is an opportunity to persuade the public body, at a no-cost-risk stage, to consider the grievance and put the matter right rather than face having its decision or action judicially reviewed.

**Step 2 – The permission stage** - This allows the court to filter cases by deciding which should be allowed to go to a full hearing. The permission stage is decided on the basis of a written claim and will involve a fairly brief look at the case to decide whether there is an arguable case; and the case has been brought promptly or if any delay can be justified.

**Step 3 - The full judicial review hearing.** If permission to proceed is granted, when all parties are ready, and when the court has time available, the case is listed for a full hearing at which argument by both sides is heard by the court.

8. Judicial review looks at the lawfulness of actions and decisions. These can be challenged on a number of grounds as follows:

- i. *Illegality* - Public bodies must correctly understand and apply the law that regulates their decision making powers. An action or decision may be unlawful if the decision maker had no power to make it or exceeded the powers given to him/her. Four kinds of illegal activity may be identified:
  - *Refusing to act* in a certain way in a mistaken belief that the law does not allow the body to act in that way;
  - *Misuse of discretion* - e.g. using a discretionary power for the wrong purpose or in the wrong circumstances, or putting unlawful limits on the exercise of discretion (often called *fettering of discretion* and typically applying a local policy rigidly);
  - *Taking irrelevant factors into account* or failing to take account of all relevant factors; and,
  - *Failing to take account of the Human Rights Act 1998*.
- ii. *Irrationality* - The court can reverse a decision if it is so unreasonable as to be “perverse” or “irrational”. Arguing that a decision is irrational is extremely difficult and such claims are usually linked to challenges based on *illegality* and/or *unfairness*, if this is possible.
- iii. *Unfairness* - This deals with the process for reaching a decision and includes *the right to a fair hearing* (which includes the rule against bias). Also the courts have recently extended the idea of fairness to prevent abuses of power where public bodies have sought to go back, without sufficient justification, on promises made (called *'legitimate expectations'*).

9. If an application for judicial review is successful, the court can grant a *remedy* by making of one of six orders:

- i. *Quashing order*: the most commonly requested remedy. It *overturns* an invalid decision that has already been made. The public body must then take the decision again applying the proper legal test or following a fair procedure.

- ii. *Prohibiting order*: prevents a public body from taking an unlawful decision or action – for instance, to prevent the Home Office from deporting someone whom it has wrongly decided is an illegal immigrant.
- iii. *Mandatory order*: requires the performance of a duty, either an action the body has a duty to perform or the duty to reach a discretionary decision. For instance the court may order the public body to consider an application for a benefit when it has failed to do so (though the court *cannot* require that a specific decision is made, such as ordering that benefit be paid).
- iv. *Declarations*: The court may simply declare what the law is, or declare the respective rights of the parties, without making any other order.
- v. *Injunctions*: prevent an illegal act or enforce the performance of a duty. Since a *prohibiting* and *mandatory orders* serve similar purposes, injunctions are relatively rare. However, they are sometimes granted at the permission stage of the proceedings as a temporary order made before the court considers the case fully at the final hearing. For example, an injunction can be sought at an early stage to require a local authority to continue to provide community care services in a case disputing the lawfulness of withdrawal of those services.
- vi. *Damages*: Before the Human Rights Act came into force, damages were rarely awarded in judicial review and were not available to compensate people who had unlawful decisions made against them. Damages may now be awarded where a public body has unlawfully interfered with your human rights.

### **The Application Procedure**

10. The claim form must be filed promptly and in any event not later than three months after the grounds upon which the claim is based first arose (CPR 54.1 (1) or the shorter time limits specified by *CPR 54.5(5)* and *54.5(6)* for certain planning judicial reviews (within six weeks) or certain procurement decisions (within 30 days).
11. The Sec of State Rebecca Pow refused our request for a public enquiry in her correspondence dated 6<sup>th</sup> November. In our letter dated 21 December to The Prime Minister Rishi Sunak MP, copied to Steven Barclay MP, Secretary of State for Environment, Food & Rural Affairs we asked HM Govt. “..to request you to reconsider your decision and commence a public inquiry into this matter”. It is not possible to agree an extension of time for lodging the application with the defendant. If an extension of time is needed for the lodging of the application, the claim form must:
  - include such an application; and
  - set out the grounds in support of the application.
12. A judge will usually consider the application for permission to proceed with the claim for judicial review on the papers. The judge’s decision granting or refusing permission and the reasons for the decision will be served on the claimant, defendant and any interested party. If permission is refused, the claimant may request the decision is reconsidered at a renewal hearing.
13. If permission is granted to the claimant, there is no right of appeal from the grant

of permission for the defendant.

### **Costs**

14. It is well known that the costs of a contested JR can be considerable although every case is different and it is difficult to give a precise estimate in this regard. However it is worth bearing in mind that I am advised that the council spent almost £1m in costs in order to secure the Abatement Notice on Walleys Quarry. The extent of these costs is obviously a reflection of a number of factors e.g. the length of time this issue has been ongoing, the volume of evidence/data that has accumulated during this time, the complexity of the legal issues etc. I would add that I understand that the above figure does not include the cost of senior officers time expended on the matter which should not be underestimated.
15. In all the circumstances I would currently suggest that we would need to make a provision in the region of at least £1M **for a single JR**, bearing in mind that if we are unsuccessful we would be liable to pay the other side's considerable legal costs.

### **Conclusion**

16. It is worth bearing in mind that the ultimate decision of whether or not a JR should be pursued should be based upon specialist professional legal advice taking into account the risk to public funds of doing so (whether such an application is successful or not) and it should be borne in mind that if/when leave for JR is granted the court process is not quick and can take in the region of 12mths to be concluded.
17. The end result of a JR may not ultimately "ease the suffering" of the community in relation to Walley's Quarry as JR can often merely result in the decision making body being directed to go back and reflect on its decision-making process and result in it reaching the same decision in a different way which may make it procedurally "fair" whilst the practical effects may remain substantively the same i.e. the Sec of State's decision not to agree to hold a Public Enquiry into Walley's Quarry.
18. Finally, our KC has been instructed to advise on this matter although we are currently awaiting Counsel's final advice on the merits/prospects of success of pursuing a JR, which it is envisaged shall be available at April's full Council meeting, when the final substantive advice requested by full council will be supplied.

Anthony Harold

Director of Legal & Governance/Monitoring Officer

15.03.24



**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**CORPORATE LEADERSHIP TEAM'S  
REPORT TO CABINET**

**19 March 2024**

**Report Title:** Newcastle Town Deal Digital Infrastructure Project Update

**Submitted by:** Deputy Chief Executive

**Portfolios:** Finance, Town Centres & Growth and One Council, People & Partnerships

**Ward(s) affected:** Crackley and Red Street, Bradwell, Holditch and Chesterton, Wolstanton, Cross Heath, Knutton, Silverdale, May Bank, Thistleberry, Town, Keele, Westlands, Clayton, Westbury Park, and Northwood Park.

<b><u>Purpose of the Report</u></b>	<b><u>Key Decision</u></b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<p>To provide Cabinet with an update on the progress made with the Newcastle Town Deal funded Digital Infrastructure Project and to make recommendations to Cabinet to enable the project to progress to the next stage.</p>	
<p><b><u>Recommendation</u></b></p> <p><b>That Cabinet:</b></p> <ol style="list-style-type: none"> <li>1. <b>Notes the progress on the Digital Infrastructure project as part of the Newcastle Town Deal;</b></li> <li>2. <b>Authorises the Deputy Chief Executive in conjunction with the Portfolio Holders for Finance, Town Centres &amp; Growth and One Council, People &amp; Partnerships to progress the Digital Infrastructure project to the next steps of procuring a partner to deliver a fibre network within the Newcastle Town Deal area;</b></li> <li>3. <b>Authorises the Deputy Chief Executive in conjunction with the Portfolio Holders for Finance, Town Centres &amp; Growth and One Council, People &amp; Partnerships, to examine the invest to save potential of connecting key Borough Council sites to the fibre network to release the full benefit from this investment;</b></li> <li>4. <b>Receives a further report on the digital inclusion element of the project is considered by a future meeting of Cabinet.</b></li> </ol>	
<p><b><u>Reasons</u></b></p> <p>The Digital Infrastructure project is one of several projects within the Newcastle Town Deal Town Investment Plan. This report enables the next stage of delivery for this project. The project is expected to entail the installation of approximately 50KM of a fibre network with associated digital hubs, located in existing community centres within the Newcastle Town Deal area to enable a range of business and community benefits to be delivered. This will benefit areas within Newcastle that are not within the scope of digital upgrades from existing network providers.</p>	

## 1. Background

- 1.1 Cabinet has previously noted that in September 2019 the Government invited 100 places to develop proposals for a Town Deal as a part of the Government's Levelling Up agenda. The Council was invited to participate in this valuable opportunity to drive significant investment into the Borough. The Council, working with a Town Deal Board has gone through various stages of development to gain approval for the Newcastle Town Deal Investment Plan and the projects that were contained in that Investment Plan. Cabinet has considered Newcastle Town Deal on several occasions.
- 1.2 The Digital Infrastructure project, which is the subject of this report, was one of the projects proposed in the connectivity element of Newcastle Town Deal Town Investment Plan. The project aims to enhance digital connectivity in the town centre and surrounds. Following work to implement the project, several interventions were proposed to improve the digital infrastructure in Newcastle:
- continue 'business as usual'.
  - develop the SafeZone®, or similar, smartphone application.
  - improve the resilience of the fibre network.
  - invest in public sector ducting.
  - enhance 5G coverage across Newcastle-under-Lyme; and
  - 'flooding' the town centre with wi-fi.
- 1.3 Whilst each of these proposed options were considered to have merit and had been scrutinised by the project delivery group, due to the ever-changing digital market it was felt that a further review was needed to validate the way forward. To support this, a specialist in the sector, Regional Network Solutions Ltd, (RNS) was appointed to conduct the review.
- 1.4 In conducting the review RNS considered several issues:
- Whether Town Deal funding is still required, or the commercial market is addressing the need.
  - Are there other ways that improvements in digital connectivity could be achieved.
  - If an intervention is required, what is the most cost effective and sustainable commercial and technical solution to deliver the desired outcomes.
  - Ensuring that best value and long-term sustainability is achieved and not purely quick win fixes.
  - Ensuring that the investment drives benefit for the Council in the way it delivers services and support residents and businesses.
  - Ensure that the investment addresses and stimulates economic growth.
  - Ensure that the investment realises benefits around enabling digital skills and inclusion.
  - Creating an opportunity for collaboration, bringing together the Council, Public Services, University, Businesses and Communities
- 1.5 In conducting the review, RNS held a range of stakeholder interviews. This included commercial providers, key partners to the Council and a range of Council departments. Information from these sessions was used to inform the proposed solution that was put forward by RNS for consideration.
- 1.6 The recommended approach proposed by RNS is to invest in the laying of a fibre network across the Newcastle Town Deal area. This delivers a range of business and community benefits and aligns to the Council's Technology Strategy 2023 – 2028. Further detail is set out below.

## 2. Issues

- 2.1 The review established that for commercial delivery of fibre broadband, investment will continue to be made, primarily by Openreach and Virgin Media. However, based on the most recent data it is also apparent that whilst commercial investment will cover much of the Town Deal area, some parts of the town centre and some business parks are unlikely to benefit from fibre to the premises provision and will remain fibre 'not spots' for the foreseeable future. This will have an economic impact as a potential barrier to future growth and investment.
- 2.2 In stakeholder interviews, local partners expressed an appetite to collaborate and deliver a solution that would address economic growth and realise opportunities to address digital inclusion. Investment in digital infrastructure will also compliment other Newcastle Town Deal and Shared Prosperity Funded projects such as Keele in Town and uplifting digital skills for residents.
- 2.3 Town Deal funding is restricted to investing in the area designated in the Town Investment Plan and cannot be used in geographic areas outside of this boundary, however, to gain full benefit from connecting all of its premises in line with the proposals in the Digital Connectivity project the Council would need to invest capital resources to complete the proposed network. It is anticipated that this would achieve annual revenue savings for the Council. Clearly there is a consideration around the benefit of this approach for the Council which would need scoping out in more detail for the cost/benefit analysis.
- 2.4 In line with Town Deal governance procedures, Newcastle Town Deal Board considered the proposed solution at its meeting of 14 February 2024 and approved the project for delivery. As the accountable body for Newcastle Town Deal and given the potential benefits that this project could deliver for the Council, it is necessary for the Council to also consider and approve the next steps of the project.
- 2.5 The recommendation is that approximately 50km of fibre is used to connect public sector buildings and community facilities within the Town Deal area. This would provide the basis for fibre to the premises connectivity on business parks that are not currently planned to benefit from this investment. It would also create the opportunity to connect local community facilities to the network and create the opportunity for them to become digital hubs within local communities.

### Business parks

- 2.6 The review identified that business parks and parts of the town centre will remain as fibre to the premises not-spots on the basis that these areas currently benefit from fibre lease line provision, which is affordable for larger businesses, but based on cost, is limiting for small and medium enterprises. The proposed investment will address this by the fibre network providing open access breakout chambers outside poorly served business parks. This will enable commercial providers to connect to this access point and provide a full fibre service into the business parks, providing a more cost-effective faster gigabit capable connection. This will significantly improve provision, particularly for small and medium sized businesses. It is likely to increase the attractiveness of the business parks both for existing businesses and potential new tenants.
- 2.7 By working this way, the Council opens the business park market to commercial provision rather than providing services directly itself. In terms of subsidy control, this is compliant way of improving access as the Council is enabling the commercial market to compete rather than being tied to one provider or directly subsidising provision to businesses itself. The stakeholder consultation with commercial providers indicated that there is interest in providing services to the business parks via the open access chambers.

### Digital Hubs

- 2.8 Running fibre provision to local community hubs will provide a fast and reliable service to those centres and will enable the provision of free Wi-Fi within. This creates an opportunity for those community hubs to expand their service to the local community. As an example, for those people that might not otherwise have access to the internet, or that may have limited provision or knowledge on what to do. Providing support and learning opportunities at these hubs will open-up access to online services and the opportunity for the delivery of digital skills training in those communities.
- 2.9 Creation of local hubs is an element of provision that has great potential to benefit residents, but which will require further development. For example, management committees would need to be willing to take advantage of this opportunity and the Council will need to work with local partners on the provision of both equipment and human resources to provide the support and skills development. Whilst investment in equipment is outside of the Town Deal funding, investigation on the options to secure third party investment could be undertaken with management committees. On this basis, there is value in the Council creating a digital enablement strategy to direct work with partners to establish and operate these facilities.

### Newcastle Town Centre

- 2.10 In addition to creating opportunities for town centre businesses to benefit from a full fibre connection, there is the potential for the Council to work with partners and consider a Smart Place Strategy for the town and; subject to further due diligence, incorporate the town centre CCTV system into the fibre system. As with the digital hub element above, this would require further work to implement.

## **3. Recommendation**

That Cabinet:

- 3.1 Notes the progress on the Digital Infrastructure project as part of the Newcastle Town Deal;
- 3.2 Authorises the Deputy Chief Executive in conjunction with the Portfolio Holders for Finance, Town Centres & Growth and One Council, People & Partnerships to progress the Digital Infrastructure project to the next steps of procuring a partner to deliver a fibre network within the Newcastle Town Deal area;
- 3.3 Authorises the Deputy Chief Executive in conjunction with the Portfolio Holders for Finance, Town Centres & Growth and One Council, People and Partnerships, to examine the invest to save potential of connecting key Borough Council sites to the fibre network to release the full benefit from this investment;
- 3.4 That a further report on the digital inclusion element of the project is considered by a future meeting of Cabinet.

## **4. Reasons**

- 4.1 To deliver on the Council plan as it relates to the Newcastle Town Deal.
- 4.2 To support delivery of the Council's Technology Strategy 2023 – 2028.
- 4.3 To deliver a project within the Newcastle Town Deal Investment Plan.
- 4.4 To support economic and community development within the Borough.

- 4.5 To realise potential savings and increase digital capability in the delivery of Council services.

## 5. Options Considered

- 5.1 Several options were considered in development of the digital infrastructure project. These were:
- 5.1.1 A voucher scheme for businesses to connect to an existing fibre network. It was considered that this would have no long-term impact and does not address the full fibre not-spots as it relies on an existing fibre network being available.
  - 5.1.2 Develop the SafeZone, or similar app. As this is based on an incident response scenario this would not deliver the wider business or community outcomes and there is no evidence that this would produce a longer-term return on investment.
  - 5.1.3 Improve the resilience of the fibre network based on vouchers. This did not produce a value for money result.
  - 5.1.4 Invest in public sector ducting rather than utilising the existing ducting available. This was rejected as an expensive option that would not produce a commercial return.
  - 5.1.5 Enhance 5G coverage across the area. It was considered that this should be left to the private sector to invest in as a commercial proposition. Investment would be unlikely to offer any significant value to this market.
  - 5.1.6 Flooding the town centre with Wi-Fi. There is existing Wi-Fi provision in the town centre which has already received investment through the Accelerated Town Deal to improve its coverage. Additional investment would produce limited economic or community regeneration outcomes when compared with the potential of the preferred solution.

### The preferred option

- 5.2 The preferred option, which is recommended by the independent specialist review is to deploy a fibre network. This would be delivered through Openreach's Physical Infrastructure Access (PIA) duct. This enables a fibre network to be built and expanded much more quickly and economically than building from scratch. Each public sector site could then be connected. The route would create a series of break out chambers outside of the poorly served business parks.
- 5.3 This option has a commercial model associated with it. In return for its investment the Council would get free access for a specified number of years, (proposed as 15 years). The fibre deployed would be an open access network that would be accessible to others and provide the opportunity for further private sector investment into the business parks. there is potential for the Council to realise a modest revenue share from the transit fees charged.

## 6. Legal and Statutory Implications

- 6.1 Section 2(1) of the Local Government Act 2000 permits local authorities to do anything they consider likely to promote or improve the economic, social, and environmental well-being of their area. That would include actions to deliver infrastructure that enables digital opportunities to both businesses and residents to improve wide scale economic opportunities.

- 6.2 The proposal requires procurement of a delivery partner for the construction and operation of the fibre network. This will be done via a legally compliant framework.
- 6.3 In addition to the construction of the fibre network the Council would need to enter into an Indefeasible right of use (IRU) agreement with the selected provider. In telecommunications, this is a type of permanent contractual agreement between the owners of a communications system and a customer of that system that cannot be undone. When a customer (in this case the Council) purchases an IRU, they acquire the exclusive and unrestricted right to use a specified amount of the system's capacity for a defined number of years. These contracts are typically long lasting, in this case 15 years is proposed.
- 6.4 This proposal would require the Council to procure a new internet service provider.

## **7. Equality Impact Assessment**

- 7.1 The nature of the project is intended to seek benefits for all businesses and residents of the town centre and along the A34, including the business parks north of the town centre to support the economic development with improved digital connectivity within Newcastle town centre.

## **8. Financial and Resource Implications**

- 8.1 This project involves the expenditure of Newcastle Town Deal project funding. This is capital funding. The project has been approved for delivery through the Town Deal process.
- 8.2 Delivery of the project will engage officers from the Economic Regeneration and ICT Teams.
- 8.3 To complete the next phase of delivery it will be necessary to re-engage RNS to support the procurement of a delivery partner. This will be funded from Newcastle Town Deal monies.
- 8.4 The estimated cost of installing the fibre network is £1,750,000 which is within the Town Deal allocation for this project. As the project cost is based on a per KM amount (plus contingency) the final cost will be determined by the length of fibre deployed but will not exceed the Town Deal project budget available.
- 8.5 Should the invest to save proposal for Council investment be accepted to extend the network beyond the Newcastle Town Deal area this would require capital expenditure by the Council. As stated above, cost is based on a per KM amount. The implementation of the fibre network would also support in reducing the operational expenditure of the Council's existing internet connectivity. Further detailed work will be required to complete an invest to save proposal for consideration.
- 8.6 The Council would need to procure a new internet service provider. Based on benchmarking provided by RNS, this would cost between £450 (100Mb) to £800 (Gigabit) service per annum.

## **9. Major Risks & Mitigation**

- 9.1 As part of the business case development and evaluation a risk assessment has been undertaken and is detailed below.

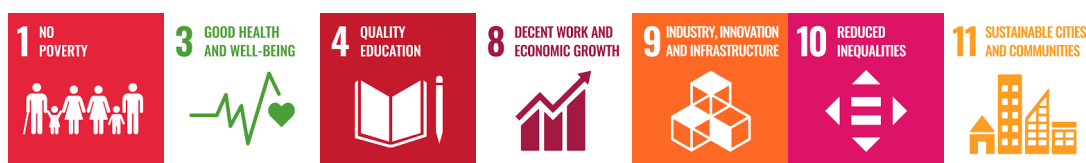
Risk	Mitigation
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Who will be monitoring the fibre? – will this fall to the Council?	The monitoring and maintenance of the fibre will be assumed by the delivery partner and will be specified within the procurement requirements
Council Right of Use could this be revised or removed	The 15 Year IRU will be captured within the procurement specification and will be protected under contract
Cost of deployment could the Council be subject to additional costs during the deployment phase?	The procurement process will require a fixed guaranteed cost. During the project delivery stage additional costs may emerge in the guise of excess charges (ducting damage) but will be balanced against the budget available and will either be funded through savings made or sites that are dropped to ensure that the project remains within budget.
Cost of taking a service could it be more expensive than the service currently being delivered?	Based on an assessment of the current operating costs of the service provision to council sites and benchmarking these current costs against a similar project to that proposed costs should be reduced by a considerable percentage.
Is there long-term value in funding such infrastructure?	<p>Availability of fibre under the terms described will align and be an enabler for the Councils long term strategic approach to delivering cloud-based council services based on zero trust principles. This proposal has been shared and discussed with ICT and has received support in principle.</p> <p>Will be adopting an approach which is now becoming a common strategy across local authorities with a move to internet only services as opposed to the traditional model of one provider providing connectivity.</p>

## 10. UN Sustainable Development Goals (UNSDG)

10.1 This investment in digital infrastructure to improve connectivity for businesses and residents will provide the following goals:-



## 11. Key Decision Information

11.1 The project covers multiple Wards that are within the Newcastle Town Deal boundary. Crackley and Red Street, Bradwell, Holditch and Chesterton, Wolstanton, Cross Heath, Knutton, Silverdale, May Bank, Thistleberry Town Keele, Westlands, Clayton, Westbury Park, and Northwood Park.

11.2 The project involves expenditure from the Newcastle Town Deal grant monies. The Newcastle Town Deal allocation for this project is £2,285,000.

11.3 This is a key decision.

## 12. Earlier Cabinet/Committee Resolutions

- 12.1 18 October 2022 Newcastle Town Deal [Newcastle Town Deal.pdf \(newcastle-staffs.gov.uk\)](#)
- 12.2 13 January 2021 Newcastle Town Deal, submission of the Investment Plan including Knutton [Newcastle Town Deal.pdf \(newcastle-staffs.gov.uk\)](#)
- 12.3 4 December 2019 Town Deals, establishment of Town Deal Boards and development of Investment Plans.

### 13. **List of Appendices**

- 13.1 Appendix A – Digital Infrastructure Town Deal Paper and Scope of Works

### 14. **Background Papers**

- 14.1 Newcastle Town Deal investment Plan
- 14.2 Council Technology Strategy 2023 – 2028
- 14.3 Openreach PIA information page. [Physical Infrastructure Access\(PIA\) \(openreach.co.uk\)](#)





# **Newcastle Under Lyme Digital Connectivity Business Case**

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# 1. Purpose

Newcastle Under Lyme were one of the 101 successful bidders for the Government's Town Deal fund, making a strong case which secured £23.6M of funding.

Projects have been identified for the Town Deal fund which will deliver a step change not just in the look and feel of the town centre but will also create long term skills and employment opportunities.

The development and delivery of the SMART Newcastle Digital Infrastructure initiative Improving the provision of high-speed broadband is one of the proposed interventions.

Following earlier studies and analysis a series of options were identified in 2022 comprising.

- continue 'business as usual';
- develop the SafeZone®, or similar, smartphone application;
- improve the resilience of the fibre network;
- invest in public sector ducting;
- enhance 5G coverage across Newcastle-under-Lyme; and
- 'flooding' the town centre with wi-fi.

Whilst each of these proposed options were considered to have merit and have been subsequently scrutinised, due to the ever changing market a further review was undertaken with a view to validating these options and if identified recommending an alternative digital infrastructure intervention.

This Business Case is therefore focused on addressing the following requirements of Newcastle Under Lyme Borough Council:

- Review of current proposed options
- Summary of the commercial market
- Options for investment
- A recommended way forward based on sustainability, value for money and long term benefit.

In addressing these requirements, a series of considered key principles and criteria were also applied:

## **Key Principles:**

- Is the available Town Fund funding for a digital connectivity intervention still required or has the commercial market addressed or has demonstrated an intention to invest in the Town Fund Area?
- Are there other ways in which we can enable improvements in digital connectivity not through funding interventions but through current projects and existing infrastructure?
- If an intervention is required what is the most cost effective and sustainable commercial and technical model based not on technology but on the outcomes, we are seeking to realise?
- Ensure that best value and long term sustainability is realised and not quick win fixes.
- Ensure that the investment drives direct benefit for the Council in the way it can deliver services and support residents and businesses.
- Ensure that the focused investment addresses and stimulates economic growth.

- Ensure that the focused investment realises benefits around enabling digital skills and inclusion.
- Create a platform for collaboration bringing together the Council, Public Services, University, Businesses and Communities.

## 2. Executive Summary

### 2.1 Coverage Narrative:

- Based on the market engagement exercise there is evidence to suggest that commercial investment primarily from Openreach and Virgin Media is due to be increased and sustained.
- There remains an absence of any significant Alnet Investment (Alternative Network Providers). Investment within the Borough currently stands at 0.44% which is in contrast to neighbouring local authorities where between 30-65% of dwellings have benefited from such investment. There is no clear explanation for this but it should be explored further to understand what Newcastle Under Lyme could do to raise this level of investment.
- Based on the most OMR (Open Market Review) Data co-ordinated by Digital Staffordshire and BDUK it is evident that commercial investment will address the vast majority of the designated Town Fund Area primarily residential but also business.
- Despite this planned investment reflected in the OMR Data it is apparent that areas of the town centre and business park clusters principally located along the A34 will not benefit from FTTP (fibre to the premises) investment and will remain fibre 'not spots' for the foreseeable future with a consequent impact upon the local economy and becoming a potential barrier to future growth and investment.

### 2.2 Existing Option Reviews:

As part of the evaluation review which has informed this Report, the options as outlined in the SMART Newcastle Digital Infrastructure Options Paper of March 2022 were subject to further analysis the result of which identified that the options as presented may have had a variable level of merit in early 2022 but for the reasons as described were no longer considered viable or would not deliver value for money:

- **Continue 'business as usual';**

Based on the OMR data any voucher scheme would have limited impact as this Report is of the considered opinion that commercial investment will address the issue of business connectivity through the proposed solution.

- **Develop the SafeZone®, or similar, smartphone application;**

Whilst the safezone application may have in principle a degree of merit making a funding intervention would not we believe be a good use of public money based on the following grounds:

- The business case is predicated by a return on investment through commercialisation which based on other similar application projects evidence suggests that this cannot be validated,
- There is a reliance on 5G as the primary means of connectivity which based on current

5G coverage is not available nor is there evidence that consumer take up of 5G at this stage which capture the key market that this application is focused on.

➤ **Improve the resilience of the fibre network;**

This is considered a somewhat confusing and ill thought out solution which appears to be based on a voucher scheme for the public sector. A model which appears not to be supported by any cost model nor it should be noted has it been implemented by any other local authority.

➤ **invest in public sector ducting;**

Whilst such an option may have had some merit five years ago, investing in a new ducting network in the current economic climate is considered unviable and would not fulfil a value for money matrix.

To deploy a ducting network of just 10Km at a cost per kilometre of circa £175K this would cost in the order of £1.75M which when added to ongoing maintenance and liability issues would be both costly and would not realise a return on investment.

Reference was made to realising a commercial opportunity by providing access to third parties to utilise the ducting in return for an annual rental fee, however the level of rental would be aligned to PIA Openreach rental fees which are circa 50p per linear metre which would be result in a minimal return and without the desired strategic impact.

On this basis this Report is of the considered view that more sustainable and viable options available.

➤ **Enhance 5G coverage across Newcastle-under-Lyme;**

Whilst aspirational enhancing 5G coverage within Newcastle Under Lyme should be left to the Mobile Operators investment. Making a funding intervention will not accelerate investment and could be subject to 'state aid' review, what would be of merit is for the Council to play an enabling role in providing access to its assets and infrastructure but this would not require any direct investment and should be the strategic approach adopted.

➤ **'Flooding' the town centre with wi-fi.**

Whilst such a technical solution may have had some merit 10 years ago, the delivery of Outdoor Wi-Fi remains an unproven commercial business case which is based on low take up and limited benefit realisation. For example, Boroughs in London where Public Wi-Fi was deployed is now being removed due to lack of use. .

In outlining the position in respect to Outdoor Wi-Fi this is not to suggest that Wi-Fi does not have an important role to play with the focus being on delivering inbuilding Wi-Fi and the leveraging of community hubs as digital hubs enabled by Wi-Fi which based on experience does offer considerable value.

## 2.3 Market Engagement – Key Findings

- Openreach extending investment within Newcastle Under Lyme
- Virgin Media planning some new fibre investment but not in the Town Fund Area.
- Virgin Media as part of their fibre upgrade investment will be upgrading their existing Cable Network deployed with the Borough to fibre between now and 2028.
- VX Fiber whilst present in Stoke on Trent have no plans to invest in the Town Fund Area unless public funding becomes available.
- ITS whilst no current presence within the Town Fund Area expressed interest in business park connectivity based on commercial investment.

## 2.4 Stakeholder Engagement – Key Findings

- Real appetite expressed by all parties to collaborate across all sectors and deliver a solution which would address economic growth but also realise opportunities to address digital inclusion.
- Real willingness expressed by Aspire Housing and Keele University to be involved in any connectivity project and consequent shared benefit.
- Grounds emerged to justify a focused intervention in addressing council connectivity requirements.
- Subject to the funding being available to extend the proposed solution to incorporate the Town Centre Public Realm CCTV Network migrating at key sites from a wireless to a fibre solution which would make the network more robust and resilient and provide a platform based on the cctv columns/locations to start thinking about the creation of a Smart Town Platform based on multiple user cases.
- Newcastle Under Lyme has the potential and opportunity to be an exemplar in Staffordshire in delivering a Digital Infrastructure Strategy and Action Plan.
- For Newcastle Under Lyme, it is essential that the principle of making any funded intervention meaningful for a resident or business must be adhered to.
- As the Draft Local Plan currently out for consultation is reviewed it is essential that Newcastle Under Lyme's digital aspirations are clearly captured.
- Requirement and aspirations of Keele University re their Keele In Town and the creation of the Town Hub Site need to be captured within any proposed intervention.
- Ensure that a holistic approach to digital is adopted and wherever possible projects and pilots requiring digital connectivity are considered collectively to strengthen the business case as well as reduce cost.

- There is a need for the Borough to develop a digital narrative which could support engagement with the market and attract investment.

## 2.5 Recommendations

- To note the changing telecom market regarding investment and the potential impact this will have on the Town Fund Area
- To progress with a detailed business to fund a dark fibre deployment linking public sector and community sites via Openreach PIA within the Town Fund Area which will deliver a fibre capability for the public sector and key partners such as Aspire Housing
- To note the indicative costs to deliver 50Km of dark fibre connecting public sector and community sites within the Town Fund Area amounting to £1.75M.
- **Business Case:** to progress with the proposed business case as detailed in Section 4, 5, 6 and 7I.
- **Actions and Timetable:**

To note and approve the following actions and timetable:

- Progress with preparation for a procurement exercise based on the Network Services 3 Crown Commercial Framework LOT 1:
  - Development of Procurement Specification technical requirements
  - Confirm site schedule to be included within the tender
  - Development of the commercial specification
  - Development of social value requirement
  - Development of evaluation questions

Procurement Documentation to be finalised and approved for release mid March 2024.

- Procurement Process to be progressed March-April 2024
- Contract Award May 2024
- Contract commencement May 24
- Delivery June 24 – June 25
- Completion June 2025



### 3 Business Case

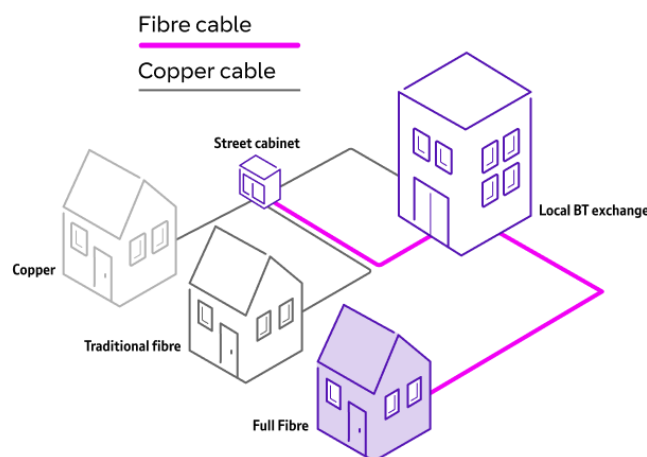
#### 3.1 Strategic Case

To direct the £2.0M allocated for digital infrastructure from the Town Deal Fund to make sure that communities and primarily businesses within the Fund Area have access to Gigabit-capable fibre broadband and realise the direct and indirect social and economic value that could be achieved.

##### 3.1.1 Current Market Fibre:

The bulk of internet connections today still use BT Openreach's old copper network to connect to the home, with fibre only being used to connect the telephone exchanges to the familiar green street cabinets, where the jump onto the copper network is made. This technology is known as 'Fibre to the Cabinet' (or 'traditional fibre' in Schedule 1 below) and even though it still uses the copper network for part of its journey, BT brands this rather confusingly as a 'fibre broadband' service. This is confusing because a true fibre broadband service – or 'full fibre' – uses a fibre optic connection all the way from the telephone exchange to the home; 'Fibre to the Home' or 'fibre to the Premise'. Full fibre can support speeds of 1 Gbit/s and above or ten times faster than the speeds BT's 'fibre -copper' broadband can offer (although this too is more than capable of meeting all the current streaming needs of even the most demanding households).

Schedule 2 describes the different types of broadband available in the UK market and the performance differences between the technologies.



*Schedule 1: BT illustration of different types of broadband connection; the bulk of the UKs broadband connections today are via what BT calls 'Traditional Fibre' which only uses fibre from the exchange to the street cabinet, using the old copper telephone network to connect from there to customer homes. Broadband performance over copper declines quickly the further the user is away from the street cabinet*

But there are other home broadband technologies that can deliver speeds of 1Gbit/s and above that do not use fibre optics; Virgin-Media's cable TV network covers over 60% of the

UK population and is Gigabit-ready. This is why the Government shifted from a ‘full fibre’ ambition to one of Gigabit ready, rightly placing emphasis on performance rather than the underlying technology.

BROADBAND TYPE	TYPICAL PERFORMANCE	DESCRIPTION
Full Fibre broadband	1 Gbit/s	Known variously as:- Full Fibre Fibre to the Premise (FTTP) Fibre to the Home (FTTH)
Ultrafast broadband	100Mbit/s – 360Mbit/s	Typically cable delivered services from Virgin-Media who also offer higher speed ‘full fibre’ services
Superfast broadband	Whilst Ofcom have a single Superfast Broadband category, for the purpose of this report we also use the following sub-divisions to provide more granular insight: ‘Good’ Superfast 30Mbit/s - 100Mbit/s ‘Basic’ Superfast 10 Mbit/s – 30 Mbit/s	Fibre to the Cabinet (FTTC) as provided by Openreach and their reseller Service Providers
Decent broadband	c10 Mbit/s	usually older ‘DSL’ services)

*Schedule 1: Broadband market taxonomy*

Increasingly the market is witnessing a dramatic shift towards full fibre investment and deployment and it is imperative that Newcastle Under Lyme Borough Council working with its partners continue to attract and benefit from such investment.

### **3.1.2 Current Fibre Coverage Newcastle Under Lyme:**

Before analysing in further detail, the current level of full fibre coverage within the Borough of Newcastle Under Lyme it is imperative that we can place this coverage within a regional and national context which will enable us to assess our position and determine whether the current levels of coverage and investment in FTTP is placing Newcastle Under Lyme at a disadvantage economically and strategically both at a regional and national level.

In this respect the following table Schedule 3 seeks to compare Newcastle Under Lyme within Staffordshire and Cheshire

	November 2023 Fixed Residential Connectivity Data Think Broadband				
Area	FOTP/FTTH	Openreach	Alnets (Alternative Network Providers)	Gigabit	Below Legal USO
England	55.73	34.37	28.30	78.75	0.66
Staffordshire	52.19	35.69	19.39	73.81	1.17
Newcastle Under Lyme	46.51	42.83	0.55	76.24	0.62
City Stoke on Trent	36.06	9.33	27.69	90.28	0.12
Cheshire East	58.67	44.98	23.62	75.47	1.50
Cannock Chase	75.71	56.70	67.76	94.15	0.11
South Staffs	52.66	12.25	30.47	53.07	1.51
Stafford	50.35	48.46	4.96	73.89	1.52
Staffs Moorlands	39.42	16.92	27.72	63.21	3.42

Source: [Think Broadband Nov 2023](#)

### 3.1.3 Market Engagement:

To provide the Newcastle Under Lyme Town Fund Board with a thorough insight into the fibre telecom market of Autumn 2023 and to inform this Business Case a series of individual virtual sessions were hosted by Regional Network Solutions on behalf of Newcastle Under Lyme Borough Council sponsored by the Town Fund Board during October and early November 2023. The following companies which represented a cross section of the market in respect to potential interest and business model responded to the invitation to participate in this exercise:

- Openreach
- Virgin Media
- NexFibre
- VX Fiber
- ITS Technology
- City Fibre
- Netomnia
- NEOS

- Zayo
- CommsWorld
- Full Fibre

In the case of Full Fibre, City Fibre and Netomnia they declined to participate on the basis that they had no commercial interest in Newcastle Under Lyme and had no current investment plans.

All the other companies as detailed responded and provided a focused and considered response to addressing the following information gathering questions:

- Understand the current levels of full fibre coverage within the Borough of Newcastle Under Lyme
- Understand your current and future plans for full fibre investment within the Borough of Newcastle Under Lyme
- Understand what would attract your company to invest in further full fibre deployment.
- Understand how such fibre connectivity could be an enabler for future public sector reform.
- Understand what challenges and issues (if any) which could deter your company from investing in the Borough of Newcastle Under Lyme
- Understand what role Newcastle Under Lyme Borough Council should we play as an enabler with potential funding.
- Understand how we can ensure that digital inclusiveness is promoted and enabled.

#### **3.1.4 Strategic Findings:**

- A summary of the market engagement findings is detailed in Appendix A
- Through Open Market Review data shared by Staffordshire Digital it is evident that the Town Fund Area will benefit over the next 2-3 years from further commercial fibre investment however it was noted that the majority of business parks were still excluded from this proposed investment and therefore could be a driver in any proposed intervention.
- There was a clear sense that the telecom market welcomed both the market engagement exercise being undertaken and the opportunity to develop this dialogue going forward.
- The telecom market if properly engaged and managed will positively respond to the opportunities available within the Borough and are keen to pro-actively engage in the future with both the Council and Developers.

- Whilst it is acknowledged that Openreach will play a key enabling role in delivering digital infrastructure within new Developments, other Carriers such as Virgin Media, ITS all expressed a keen interest to invest in such development opportunities and this interest needs to be captured as part of the evolving Digital Masterplan. Enabling choice for residents and businesses will be of fundamental importance.
- With the key historic presence in the Borough of Virgin Media with over 64% of dwellings within the Borough have access to an existing Virgin Media Cable Service combined with Openreach's FTTP investment Newcastle Under Lyme as Borough have almost achieved (currently 76% Gigabit enabled), the Government's aspiration of enabling 85% of dwellings having access to Gigabit Broadband by 2025.
- There is an absence of any significant Alnet (Alternative Network Provider) investment which is both surprising and disappointing when one compares this with the level of Alnet investment in some neighbouring Boroughs and Districts. This is a matter outside this Report which be explored in more detail with a view to understanding the reasons or reason why?
- Arguably, Newcastle Under Lyme Council could choose to rely on market momentum, creating a positive supportive environment for operators interested in serving the town. But given the growing economic headwinds facing all fibre operators, there is a real risk that investment in fibre rollout will slow with the economy, impacting marginal locations like Newcastle Under Lyme.
- This initial market engagement suggests there is operator interest in Newcastle Under Lyme and the Town Deal Funding could turn this interest into action.
- It is proposed that a circa 50km fibre spine connecting public sector buildings and community facilities within the Town Fund Area would potentially cover 1,000 businesses located within the Town Fund Area and provide the basis for FTTP connectivity to business parks which are currently not planned to benefit from FTTP investment. Without such a focused intervention these business parks will be placed at a distinct disadvantage in terms of attracting digital high value businesses in the future.
- Areas of the Town Fund have levels of deprivation and this funding if approved would seek to ensure that the fibre deployed would enable local community facilities and social housing clusters and deliver free Wi-Fi enable internet services into such facilities to enable and support digital inclusion and skills initiatives. In doing so create local community Digital Hubs.
- Through the planned soft market test and procurement process, we will prioritise bidders who offer a wholesale model and can bring additional investment from their retail channel partners.
- Based on the initial market engagement we believe that securing a carefully chosen partner with an effective wholesale ecosystem could bring a further c£1.5-2M of private sector investment, providing the capillary gigabit connections to business.

We have to take advantage of digital and internet technology so businesses can work efficiently and everyone is connected and can have simpler, easier lifestyles, communicating when and with whom they want.

### 3.1.5 Strategic Alignment

The proposed business case for funding is multifaceted in terms of partners, areas of coverage and scope but what underlies each of the key drivers in this strategic case is a clear aspiration to improve access to affordable Gigabit fibre connectivity for public sector services, community groups, businesses and communities throughout the Newcastle Under Lyme Town Fund Area.

- **Newcastle Under Lyme Town Centre Vision:** Contribute to stimulating investment and demonstrate through partnership how our digital aspirations can be realised.
- **Enable Strategic Objectives:** Enable and support a Digital Vision of improving access to connectivity for all.
- **Education & Training:** Address the evident deficiency in digital skills within the Borough (Town Fund Area) through training and education and in doing so create a local workforce which can support future business needs and be ready for future employment opportunities.
- **Supporting and Creating Employment Opportunities:** Working with enterprise ensuring that improvements in connectivity are accessible to business and that there is a focus on supporting current businesses as well as creating the connectivity climate to attract digital related sectors to Newcastle Under Lyme.
- **Revitalise the Town Centre:** Create a digital platform that can improve connectivity for businesses and deliver access to a fibre network which can drive digital innovation and in doing so make the Town Centre a more attractive destination for retail and leisure. Subject to further due diligence incorporating the public realm cctv network as part of this fibre network could contribute to creating this platform.
- **Attract Private Sector Investment:** Through this investment continue to promote attract and accelerate direct investment from the private sector into Newcastle Under Lyme.
- **Address Digital Inclusion:** Through this investment and by leveraging social value we will ensure that addressing digital inclusion is a priority by creating local digital hubs within communities which will be safe and secure areas to access the internet with support being made available to assist those residents requiring additional support and training to get on line.
- **Enable Public Sector Services:** Contribute to innovative ways of delivering public sector services within Newcastle Under Lyme in a more cost effective way potentially reducing connectivity cost by circa 70%.

- **Enable Community Facilities:** By enabling community facilities such as community halls with fibre connectivity and access to free Wi-Fi connectivity within these Centres this will develop their role within communities by becoming local digital community hubs which can support the delivery of local public services (Council/NHS), support community focused digital inclusion initiatives, become a hub for local micro businesses, and become more attractive to other users within the community (support community groups)..
  
- **Smart Town Ecosystem:** Contribute to the creation of an accessible fibre platform which could potentially support a future 5G ecosystem (use of public sector assets buildings and street furniture) and enable Newcastle Under Lyme working with its partners such as Staffordshire CC, Keele University to promote and proactively implement a sustainable Smart Place Strategy for the Town which will attract investment, stimulate research and innovation.

### 3.1.6 Strategic Partnerships

#### Public Sector Agencies:

This Business Case will ensure that we align with and collaborate in partnership with other public sector partners:

- Council
- Staffordshire CC
- Digital Staffordshire
- Aspire Housing
- Keele University

#### Direct Strategic Public Sector Benefits:

Potential Savings:

- Will enable an alternative service delivery model enabling migration to cloud based services based on internet service provision.
  
- With the availability of fibre connectivity and the associated business model based on a 15 year IRU for access to the fibre (free for the public sector to use) this will enable Newcastle Under Lyme Borough Council to drive significant savings through any future connectivity provision procurement –

#### Indirect Public Sector Strategic Benefits:

- Enable the public, private and voluntary sectors to progress in partnership a wider social value strategy in respect to realising wider community benefit and addressing digital exclusion through the creation of local digital community hubs.

### 3.1.7 National & Regional Strategic Alignment

- Alignment with national and local government strategic ambition - The government wants to ensure that gigabit connectivity is available in the most commercially viable 85% of the country by 2025. This proposed business case will be supportive of this objective and will deliver a healthy competitive gigabit fibre connectivity ecosystem within the Town Fund Area of Newcastle Under Lyme, an ecosystem which is much needed.

### 3.1.8 Key Strategic Outcomes

This proposed business case will be focused on delivering a series of fundamental strategic outcomes which we believe are achievable and can be realistically quantified both now and in the future as part of ensuring a return on this investment. The business case as described will realise:

- **Business Retention and Growth:** will ensure access to fibre for all businesses and not just for businesses which can afford fibre lease line products. Will support in particular SME's and micro businesses which increasingly rely upon digital connectivity and will assist their retention and growth within the Borough.
- **Economic Benefit for the Town Centre and Wider Town Economy:** create a platform of fibre connectivity across Newcastle Under Lyme which will enable us to promote Newcastle Under Lyme Town Centre as place for business and will help us attract long term investment.
- **Stimulate Fibre Investment:** Stimulate and attract further investment in fibre infrastructure within Newcastle Under Lyme. Accelerate interest of the market to invest and deploy.
- **Smart Borough 5G Ecosystem:** create an accessible fibre platform principally in the Town Fund Area which would support a future 5G ecosystem and enable Staffordshire CC and Newcastle Under Lyme Borough Council to work with partners to promote and proactively implement a Smart Place Strategy for the Town.
- **Enablement of Strategic Objectives:** Realise wider Digital Vision of improving access to connectivity for all.
- **Social & Community Benefit:** improve access to Gigabit fibre connectivity within the Town providing opportunities for community hub working and studying for those who struggle with access to connectivity at home, attract and retain more local businesses with consequent improvements in employment opportunities and uplift in skills, leverage and improve access to digital services.



- **Tackling Skills and Training:** improve access to digital services within the Town which would stimulate business which in turn will generate sustainable job opportunities that could be accessed by local people and in turn generate genuine opportunities to raise aspirations and positively influence skills development.
- **Housing:** be an enabler in ensuring that all housing in the Town Fund Area will have the potential capability to access Gigabit broadband services and contribute to the default requirement of fibre being available in all new housing development regardless of tenures.
- **Public Sector Services:** enable innovative ways of delivering public sector services including the creation of a platform to deliver a One Public Sector Network within Newcastle Under Lyme.
- **Digital Inclusion:** create a platform which can drive digital inclusion initiatives and attract investment from fibre carriers and internet providers who are looking to promote and implement a social tariff model.

### 3.1.9 Stakeholder Engagement

To inform this Business Case an engagement process was undertaken which involved over 20 individual meetings with both stakeholders within the Council as well as with key stakeholders in external organisations including Aspire Housing, Staffordshire CC, Keele University and Newcastle Under Lyme BID.

In each case the sessions were focused on an information gathering exercise with a view to understanding current awareness, challenges and projects relating to digital related projects at both a Departmental and Directorate level.

The participation and contribution of all stakeholders was invaluable in contributing to this Business Case and the recommendations duly made:

#### - Council Engagement

Engagement undertaken with:

- Planning
- Digital Services
- Parking
- Environmental Health
- Economic Development
- Regeneration
- Public Realm CCTV
- Estates

#### - External Stakeholders

Engagement undertaken with:

- University of Keele

- Staffordshire CC
- Newcastle Town Centre BID
- Aspire Housing
- Stoke on Trent City Council Public Realm CCTV

### **Stakeholder Strategic Findings :**

- Previously proposed Town Fund Public Wi-Fi deployment no longer deemed viable and considered not to realise value for money on grounds of potential demand, use and capability
- Real appetite expressed by all parties to collaborate across all sectors and deliver a solution which would address economic growth but also realise opportunities to address digital inclusion.
- Real willingness expressed by Aspire Housing and Keele University to be involved in any connectivity project and consequent shared benefit.
- Subject to the funding being available to extend the proposed solution to incorporate the Town Centre Public Realm CCTV Network migrating at key sites from a wireless to a fibre solution which would make the network more robust and resilient and provide a platform based on the cctv columns/locations to start thinking about the creation of a Smart Town Platform based on multiple user cases.
- Newcastle Under Lyme has the potential and opportunity to be an exemplar in Staffordshire in delivering a Digital Infrastructure Strategy and Action Plan, however, to ensure that this opportunity is realised it is essential that the Council focuses on outcomes and not is thrown off course by new technology for the sake of new technology.
- Too often projects stall or lose direction when a technology based concept becomes the driver, for Newcastle Under Lyme it is essential that the principle of making it meaningful for a resident or business must be adhered to.
- As the Draft Local Plan currently out for consultation is reviewed it is essential that Newcastle Under Lyme's digital aspirations are clearly captured. The involvement of Planning in this process was welcomed and noted with additional wording being considered to strengthen the context and requirement narrative.
- Requirement and aspirations of Keele University re their Keele In Town and the creation of the Town Hub Site need to be captured within any proposed intervention.
- Ensure that a holistic approach to digital is adopted and wherever possible projects and pilots requiring digital connectivity are considered collectively to strengthen the business case as well as reduce cost. For example, in respect to the grant funded air quality monitoring initiative rather than a new wireless/mobile solution being procured is there a way that the council's current connectivity infrastructure or the proposed fibre solution detailed in this Report could be an enabler.

- Despite the considerable and commendable work in drafting the new Local Plan there is still an apparent absence of a Borough digital narrative which in a constructive way would be promoted with a focus on:
  1. Economic Growth: in promoting the Borough to new business. More could be done to promote Newcastle Under Lyme as a digital destination which supports businesses large and small. Should the Council be doing more? Are we doing enough to promote the Borough?
  2. Attract Investment – Profile as a Digital Destination
  3. Digital Skills and Training
  4. Addressing Digital Inclusion

## 4.0 Economic Case

### 4.1 Option Evaluation

To ensure that the proposed business case reflected and would contribute to the Town Fund Vision a number of commercial and technical models were explored and evaluated. These included the options of Outdoor Public Wi-Fi, Anchor Tenancy, deployment of new ducting through to deploying fibre via Openreach PIA and facilitating a fibre upgrade.

Following a detailed due diligence exercise as detailed in the accompanying Business Case Report it is recommended that a delivery of a dark fibre spine running through the Town Fund Area and utilizing existing PIA Openreach ducting and delivering fibre connectivity to nominated public sector buildings and community facilities would deliver a value for money technical solution as well as stimulate investment and in so doing indirectly enable businesses and communities both located in proximity to the enabled Distribution Points as well as properties passed. This approach we believe will drive and enable innovation, community benefit and realise our key outcomes and objectives.

Based on the findings and whilst further work will be required to develop this strategic proposal it is recommended that the following focused option should be progressed:

With a strategic focus to address economic growth, digital inclusion and public service delivery public sector and community sites should be enabled through the funding with a dark fibre connection delivered through Openreach's PIA infrastructure ducting infrastructure whereby the Council would benefit from access to the fibre free of charge for 15 years and deliver a fibre network across the Town Fund Area which would realise multiple opportunities and benefits.

Based on current market insight it is anticipated that based on the funding available and a cost model of £35K per kilometre to deliver this network around 50Km of fibre could be deployed to a variety of sites including council buildings, council owned community centres, Keele Universities University.

### 4.2 Financial:

- Business Case Value based on a desktop analysis = £1.75M

(Pricing includes a contingency and project management per site but is not based on a manual survey.

Further efficiencies would be anticipated when incorporated into a wider package of upgrades as opposed to individual upgrades)

- To deliver circa 50KM of dark fibre within existing PIA infrastructure with strategically located break out points and circa 30 sites could be delivered for £1.75M. This is based on LFFN benchmarking at £35,000 per km.

### 4.3 Benefit Realisation:

#### 4.3.1 Public Sector Benefit Realisation

##### Immediate Benefits:

- The availability of fibre connectivity will enable Newcastle Under Lyme Council to drive significant savings.

##### Strategic Benefits:

- **Creation of a One Public Sector Network:** Make a significant contribution to creating a fibre platform which will offer the capability to realise a vision of a One Public Sector Network delivering an aggregated connectivity and service platform with long term savings within Newcastle Under Lyme.
- **Town Centre Digital Enablement:** by delivering fibre within the Town Centre (cctv enablement) which the Council and its partners have access to will provide the opportunity to realise a wider Smart Town Vision involving the deployment of sensors to capture data and look at innovative ways driven by digital connectivity to develop a new proposition for the Town Centre as a destination..
- **Enabler for the wider Town Fund Vision:** Investment in fibre will contribute to realising other key objectives of the Town Fund

#### 4.3.2 Environmental Realisation

Whilst not completely dependent upon a fibre connection the availability of fibre as a backhaul alternative would enable the Council and its partners to accelerate their approach to monitoring environmental problems. Initiatives already delivered within individual authorities include:

- Deployment of IOT sensors to measure carbon omissions (traffic)
- Deployment of remote telemetry to measure moisture and damp.

#### 4.3.3 Community Realisation

- The aim of this business case and delivery is to identify existing community assets and build upon these within the Town Fund Area.
- Desired outcome to deliver a strong community presence which maximises early intervention.
- Digital Community Hub projects to be progressed enabled by fibre to the premise connectivity; providing public space where residents across all localities can access information & advice on a wide range of social issues. The hubs provide support with social

issues including housing/ financial/benefit advice, special educational needs, digital workshops (IT support, training/CV writing), English language support.

- Development of these hubs to support Adult Services Social Workers, Dementia Navigators, Mental Health Employment Navigators, Advocacy Services and Care Co-ordination (NHS) workers alongside a voluntary sector offer.

#### 4.3.4 Economic Benefit Realisation

- By enabling additional Open Access Distribution Points (chambers) aligned to business parks and developments this will promote and stimulate further investment from the private sector to take fibre into poorly served areas with a consequent tangible impact in lifting local GVA and supporting local business investment and growth.
- With access to improved digital connectivity this will contribute to retaining existing businesses and attracting new business sectors to the Town will result in an increase in Business Rates and a return on Business Rate retention.
- Attract to Newcastle Under Lyme new growth sectors (advanced manufacturing, environmental technologies and energy, digital and creative services, life sciences and healthcare) which will generate higher skilled job opportunities for local residents and consequently higher wages.
- Be a catalyst for micro businesses and SME's who are currently poorly served by affordable business broadband services by providing them with access to fibre connectivity at a competitive price..

#### 4.3.5 Social Benefit Realisation

- **Community Digital Hubs:** Creating Digital Hubs by addressing within the business case the delivery of fibre infrastructure to Community Centre's. We believe that this will realise a wider outcome in respect to supporting digital inclusion initiatives, establish each individual centre as a centre for digital training.

Based on our engagement with key stakeholders and as described in our Public Sector and Community benefit realisation, we believe that this strategic initiative would generate significant opportunities and benefits not only for residents but providing a platform to support the delivery of health and social care services to residents in a digitally advanced way.

- **Support Training/Education:** Improve access to fibre connectivity (creation of local digital hubs) which will not only support the actual place of learning within each community but also address support for digital training within communities which could be co-ordinated by local businesses and the University of Keele..

- **Social Housing:** In areas of Newcastle Under Lyme where social housing managed by Aspire Housing has not attracted investment in improved internet connectivity, enabling a local public sector site with fibre connectivity could be the catalyst to attract private sector investment and consequently benefit residents.

#### **4.3.6 Future Telecom Benefit**

Through the creation of a fibre platform linking public sector sites the proposed business case will look towards building upon both current initiatives as well as enabling future opportunities:

- Significantly contribute to driving 5G deployment within the Town Fund Area in the next five years.
- Address current demand for new mobile sites to address current coverage and capacity issues (4G and future 5G) within Newcastle Under Lyme and the surrounding area by identifying public sector assets which could be potentially used principally for Small Cell deployment.

## 5.0 Technical Case:

With a strategic focus to address economic growth, digital inclusion and public service delivery public sector and community sites should be identified and enabled through the delivery of dark fibre infrastructure funded by the Town Fund. This will focus on the following technical solution:

- Deployment of dark fibre infrastructure to public sector and community facilities located within the Town Fund Area. An additional option which could be explored within the proposed budget is the enablement of Public Realm CCTV within the Town Centre replacing the existing wireless network which is in need of upgrading.
- Dark Fibre Infrastructure to be delivered through Openreach's PIA infrastructure ducting infrastructure.
- Each site enabled with a Dark Fibre Network would subsequently take a lit service namely an internet service.
- As part of the fibre routing create a series of strategically located breakout chambers outside poorly served business parks

As part of the due diligence process and in developing the proposed solution the following public sector sites and community facilities as detailed in Appendix B were considered and a strategic criteria applied which focused how the connections between sites are delivered (routes) would enable and address the following strategic aspirations and outcomes:

- Address with a robust and sustainable solution based on a scalable technical and commercial model fibre connectivity which will contribute to the Council's Digital Strategy.
- Identify areas of digital and social exclusion through the enablement of community facilities with fibre connectivity and an inbuilding Wi-Fi capability
- Identify business parks currently poorly served with fibre internet connectivity (focus on start up's, micro and medium sized business who are unable to benefit from a lease line option.

Based on these sites (not exhaustive but indicative) a mapping process was undertaken the outcome to which are detailed in Appendix C which illustrate a proposed technical design and how sites would be connected.

Based on this initial mapping exercise and current market insight it is therefore currently projected that 50Km of dark fibre would need to be deployed to connect the sites currently detailed in Appendix C which would equate based on the funding available and a cost model of 35K per kilometre to deliver this network and connect the nominated sites including council buildings and council owned community centres.

An example of a technical specification can be referenced at Appendix D



## 6.0 Business Case

### 6.1 Business Case Value based on a desktop analysis = £1.75M

(Pricing includes a contingency and project management per site but is not based on a manual survey.

Further efficiencies would be anticipated when incorporated into a wider package of upgrades as opposed to individual upgrades)

Based on 50KM of dark fibre being deployed and circa 30 sites being connected as illustrated in the mapping above the following costings would apply:

Cost per Km (Dark Fibre) = £35,000

30 Sites Enabled

**Overall Cost 50Km x £35,000 = £1,750,000 (includes contingency)**

#### **Overall Cost**

Costs inclusive of contingency, project management

**Total Cost £1,750,000**

- All costs referred to in this Business Case are indicative, the actual cost of the project will not be forthcoming until formal engagement is concluded and actual surveys are undertaken.
- We believe that through a benchmarking process there is potential of securing a saving on the budget available. , which could be re-invested in alternative digital related initiatives including the option of addressing digital inclusion within the proposed Community Digital Hubs..

### 6.2 Commercial Model:

- Newcastle Under Lyme Borough Council would benefit from access to the fibre free of charge for 15 years (based on an IRU).
- Newcastle Under Lyme Borough Council would only pay for the internet service layer which based on current benchmarking would be between £450 100Mb to £800 Gigabit Service per annum.
- The fibre deployed would constitute an open access network whereby the delivery partner would have commercial rights to leverage the fibre and charge other internet providers and fibre carriers to utilise the fibre for transit in return for a transit rental fee.

- By providing access to other providers and reducing their costs to access business parks on an open access basis will stimulate and accelerate investment into poorly served areas and generate competition.
- Newcastle Under Lyme Borough Council could realise a revenue share from the transit fees charged with the revenue secured being reinvested in inclusion projects.

### **6.3 Procurement**

- A procurement route has been identified which will deliver the most effective means of engaging with the market and procuring the fibre infrastructure as described.
- In this instance an option appraisal exercise was undertaken Appendix E which identified in conclusion that Crown Commercial Frameworks Network Services 3 RM6116 LOT's 1 &/or 2 would offer the most cost-effective and accelerated procurement process.
- For the purposes of the business case the issues of Subsidy Control and State Aid and associated risks were assessed. Based on the following grounds it is the considered view that this business case complies with both Subsidy Control and State Aid as currently defined:
  1. Fibre upgrade to a public sector site
  2. A public service is delivered at each of the nominated sites which are deemed to constitute a public building/facility
  3. The proposed fibre upgrade will not be subsidising a commercial business

## 7.0 Financial Case

### **Business Case Value:**

- £1.75M (based on a desktop analysis undertaken by Regional Network Solutions)
- (Pricing includes a contingency and project management per site but is not based on a manual survey.
- Further efficiencies would be anticipated when incorporated into a wider package of upgrades as opposed to individual upgrades)
- All costs referred to in this business case are indicative, the actual cost of the project will not be forthcoming until formal engagement is concluded and actual surveys are undertaken.

### ➤ **Cash Flow:**

Subject to business case approval and subsequent procurement and award by May 2024 it is projected that completion of this project would be by June 2025..

## 8.0 Management Case

### 8.1 Project Management & Governance

#### Delivery:

Subject to business case approval and the proposed delivery and procurement model being progressed, project commencement should be May 2024 with completion by June 2025..

#### Lead Partner:

Newcastle Under Lyme Council through the auspices of the Newcastle Under Lyme Town Fund Board

#### Project Management and Governance:

- **Project Manager:** named Newcastle Under Lyme Borough Council representative.
- **Governance:** Named Governance Digital Staffordshire (recommended) who be part of the Project Management Board and will provide guidance and overview in respect to project governance.
- **Project Management Board:** Project Management Board will be created to oversee the Project will include all partners of the Newcastle Under Lyme Town Fund Project Team. The Project Management Board will report directly to the nominated Newcastle Under Lyme Council lead.
- **Project Delivery:** we will adopt project delivery templates successfully developed and implemented by South Essex Councils formerly ASELA (Association South Essex Local Authorities). An initial Project Risk Assessment is detailed in Appendix F
- **Governance Delivery:** we will adopt governance terms, templates, processes and risk management strategy successfully developed and adopted by Digital Staffordshire.

### 5.2 Partnerships

This business case is built upon collaboration and partnership and reflects a cross section of public and private sector partners within the Newcastle Under Lyme Town Fund Area including Keele University, Newcastle Under Lyme Business Improvement District, Aspire Housing, Newcastle Under Lyme Borough Council and Staffordshire CC.

## **9.0 Recommendation:**

### **9.1 Findings:**

To note the findings of this Report detailed in Sections 2 and 3.

### **6.2 Business Case:**

To progress with the proposed business case as detailed in Section 4, 5, 6 and 7I.

### **6.3 Actions and Timetable:**

To note and approve the following actions and timetable:

- Progress with preparation for a procurement exercise based on the Network Services 3 Crown Commercial Framework LOT 1:
  - Development of Procurement Specification technical requirements
  - Confirm site schedule to be included within the tender
  - Development of the commercial specification
  - Development of social value requirement
  - Development of evaluation questions

Procurement Documentation to be finalised and approved for release mid March 2024.

- Procurement Process to be progressed March-April 2024
- Contract Award May 2024
- Contract commencement May 24
- Delivery June 24 – June 25
- Completion June 2025

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## Appendix Market Engagement Findings

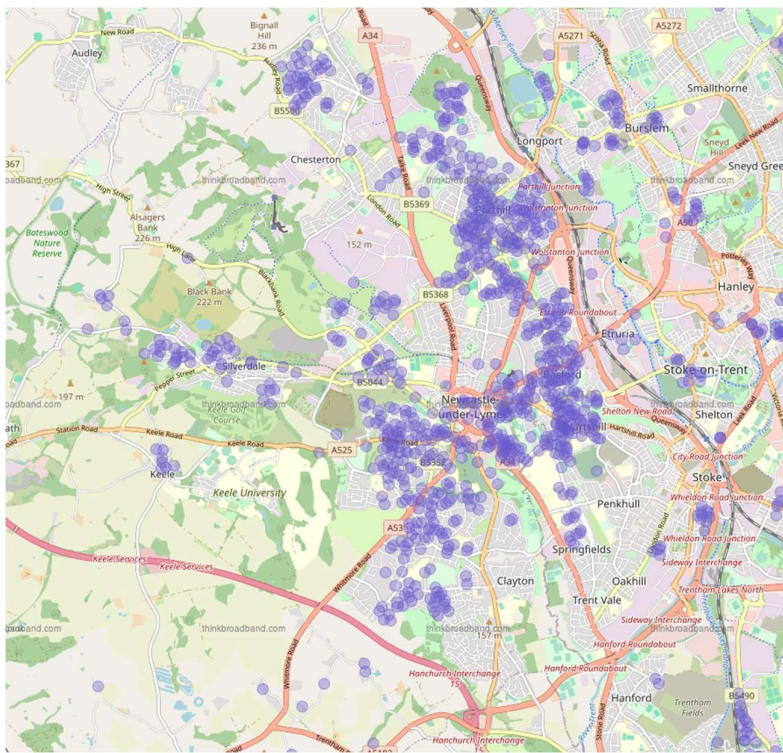
### 3.4.1 VX Fibre:

Whilst significant investment has been made in neighbouring Stoke on Trent VX Fibre without funding intervention from Newcastle Under Lyme Borough Council or the Town Fund indicated that they had no current or future plans to invest in Newcastle Under Lyme.

Whilst investment would be welcomed it is worthy of note that the City of Stoke despite LFFN intervention and VX Fibre investment has a lower level of FTTP than Newcastle Under Lyme which raises the issue of realising long term benefit and value for money.

### 3.4.2 Openreach:

Openreach has made a significant investment into the Borough with just over 42% of dwellings already benefiting from FTTP investment made by Openreach as illustrated in Schedule 4.



Schedule 4 Openreach FTTP Coverage Think Broadband Dec 23

This Report notes based on recently published OMR data that Openreach's planned investment is set to continue beyond that currently illustrated and will address FTTP coverage within the Town Fund Area by 2030. However, this projected level of coverage does come with two key caveats:

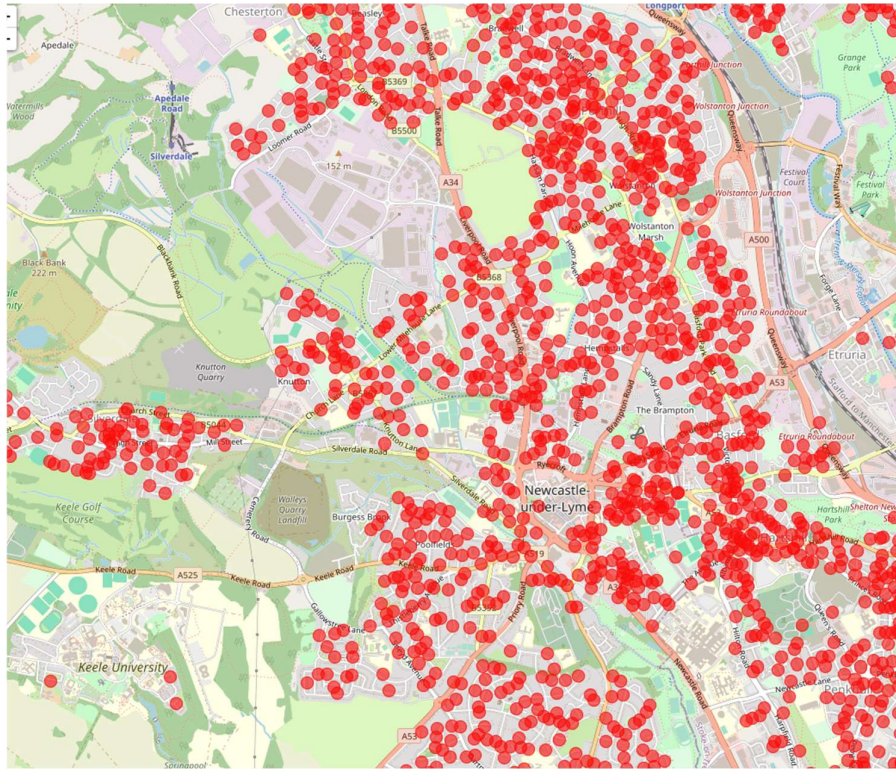
1. Business Parks and parts of the Town Centre will remain FTTP Not Spots on the basis that these areas will benefit from fibre lease line provision which will be affordable for larger business but will be limiting for small businesses and SME's on grounds of cost.
2. Where Openreach do invest around 75% of the dwellings will benefit from the investment on the grounds that it is commercially viable (based on a cost pre premise matrix). Where the cost per premises becomes prohibitive FTTP investment will not be progressed which is usually about 25% of dwellings. Therefore, a quarter of dwellings will constitute an urban not spot unless another carrier invests or funding becomes available to justify further investment from Openreach.

### **3.4.3 Virgin Media:**

VMo2 benefit from a significant DOCSIS cable network in the Borough of Newcastle Under Lyme circa 64% which will be upgraded to FTTP by 2028 but no actual timetable relating to this upgrade has been released. As part of their FTTP strategy VMo2 are part of a new joint venture named NexFibre between Infravac and Liberty Global/Telefonica to build, operate and commercialise a fibre to the home solution across the UK. A business which seeks to replicate the Openreach Fibre Model of supporting multiple service providers.

Through engagement with VMo2 there are currently plans to invest but not within the Town Fund Area, this additional investment however is noted and welcomed.





Schedule 5 Virgin Media Gigabit Coverage Think Broadband Dec 23

#### 3.4.4 ITS:

ITS particular interest in investing and addressing business connectivity principally along the A34 Corridor and also towards Keele University and the Innovation Park.

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## Appendix B Potential End Sites used for the Business Case

### 1. Current Council Connections

Site A	Site B
Keele Crematorium, Newcastle Exchange, ST5 5AB	Depot, Newcastle Exchange, ST5 2SL
Bradwell Crematorium, Newcastle Exchange, ST5 8LE	Depot, Newcastle Exchange, ST5 2SL
Museum, Newcastle Exchange, ST5 0QP	Depot, Newcastle Exchange, ST5 2SL
Jubilee 2, Newcastle Exchange, ST5 1HG	Depot, Newcastle Exchange, ST5 2SL
Castle House, Newcastle Exchange, ST5 1BL	Depot, Newcastle Exchange, ST5 2SL
Stoke Steel House, Stoke Exchange, ST1 5SZ	Kidsgrove Town Hall, Kidsgrove Exchange ST7 4EL (Re-design will be required if public realm cctv is included)
Guild Hall, Newcastle Exchange, ST5 1PW	Steel House, Festival Park S-o-T CC ST1 5SZ
Castle House, Newcastle Exchange, ST5 1BL	Kidsgrove Town Hall, Kidsgrove Exchange ST7 4EL (Re-design will be required)
Castle House, Newcastle Exchange, ST5 1BL	Jubilee 2, Newcastle Exchange, ST5 1HG
DEPOT & KTH BT CORPORATE 1GB INTERNET FEEDS	(Re-design will be required)

### 2. Council Owned Community Centres (potential aspiration to enable some community facilities)

Ramsey Road Community Centre  
Douglas Road  
Cross Heath  
ST5 9BJ

Poolfields Community Centre  
Rotterdam Road  
Poolfields  
ST5 2PE

Wye Road Community Centre  
Wye Road

Clayton  
ST5 4AZ

Red Street Community Centre  
Talke Road  
Red Street  
ST5 7AH

Bradwell Lodge  
Bradwell Lane  
Porthill  
ST5 8PS

Westlands Community Centre  
Whitfield Avenue  
Westlands  
ST5 2JQ

Clayton Community Centre  
Northwood Lane  
Clayton  
ST5 4BN

Marsh Hall Community Centre  
Grange Lane  
Wolstanton  
ST5 0EB

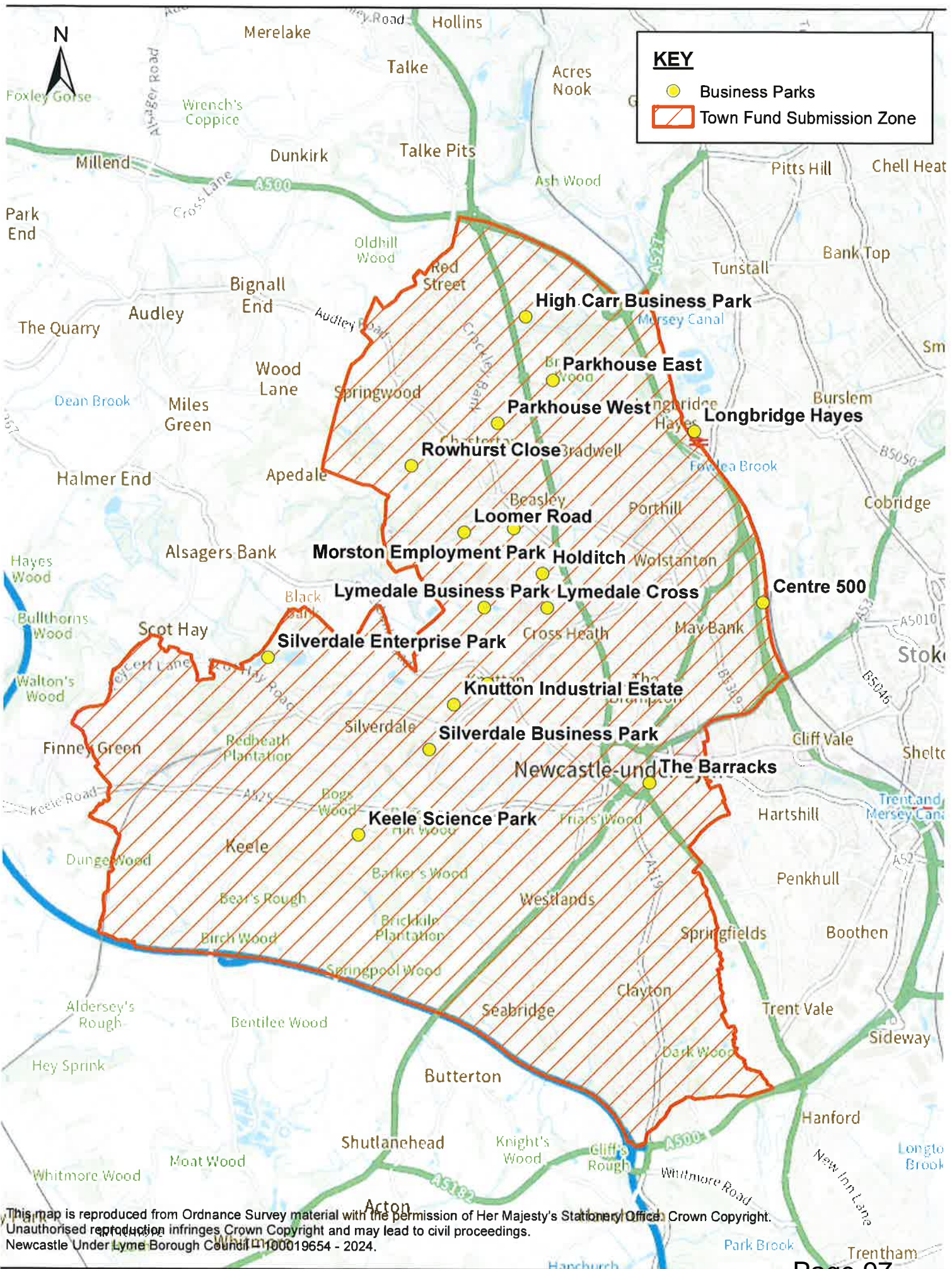
Silverdale Community Centre  
Park Road  
Silverdale  
ST5 6LL

Silverdale Social Centre  
High Street  
Silverdale  
ST5 0EU

Chesterton Community Centre  
London Road  
Chesterton  
ST5 7HZ

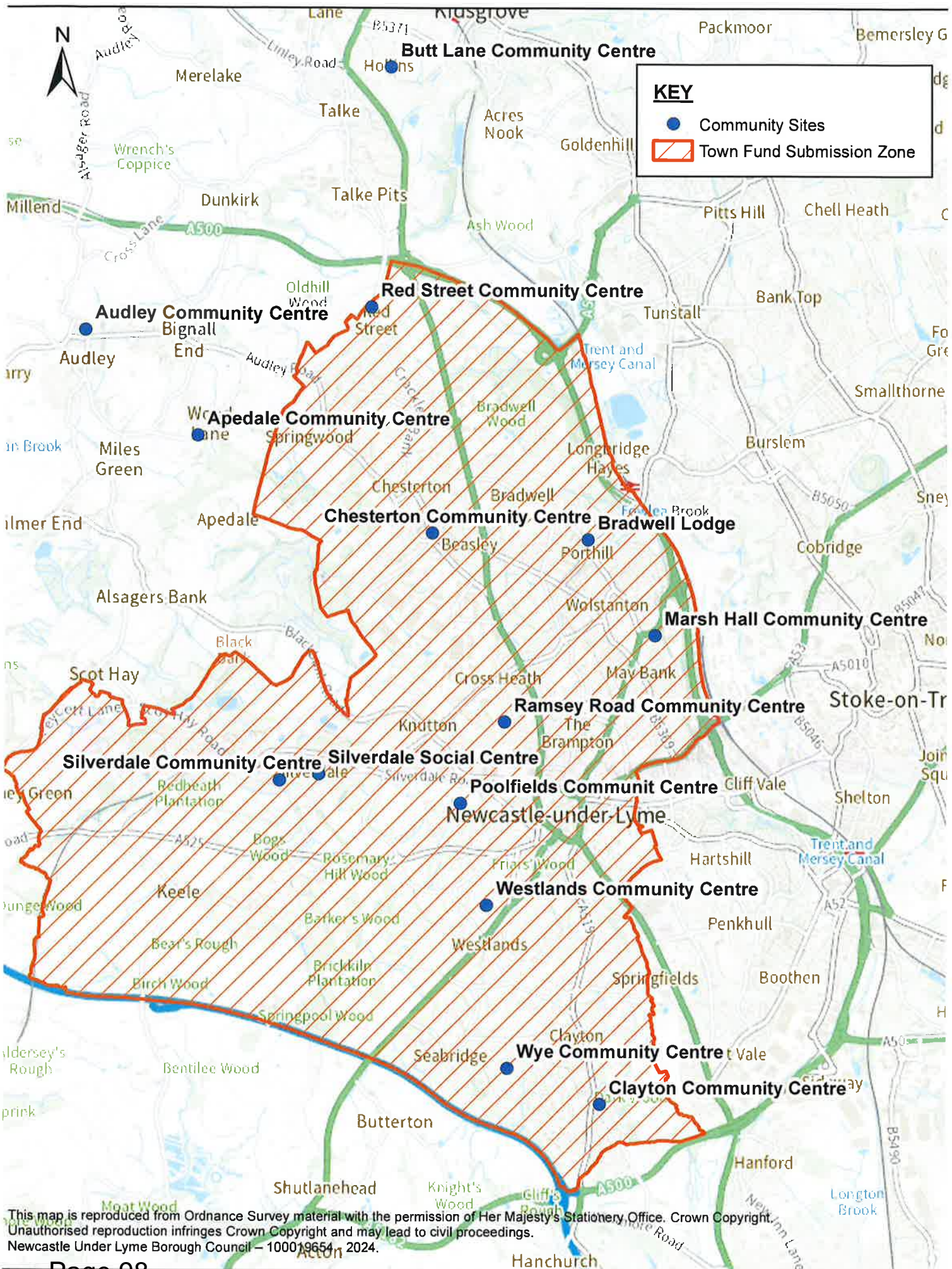
Kents Lane Community Centre  
Sutton Avenue  
Silverdale  
ST5 6TB





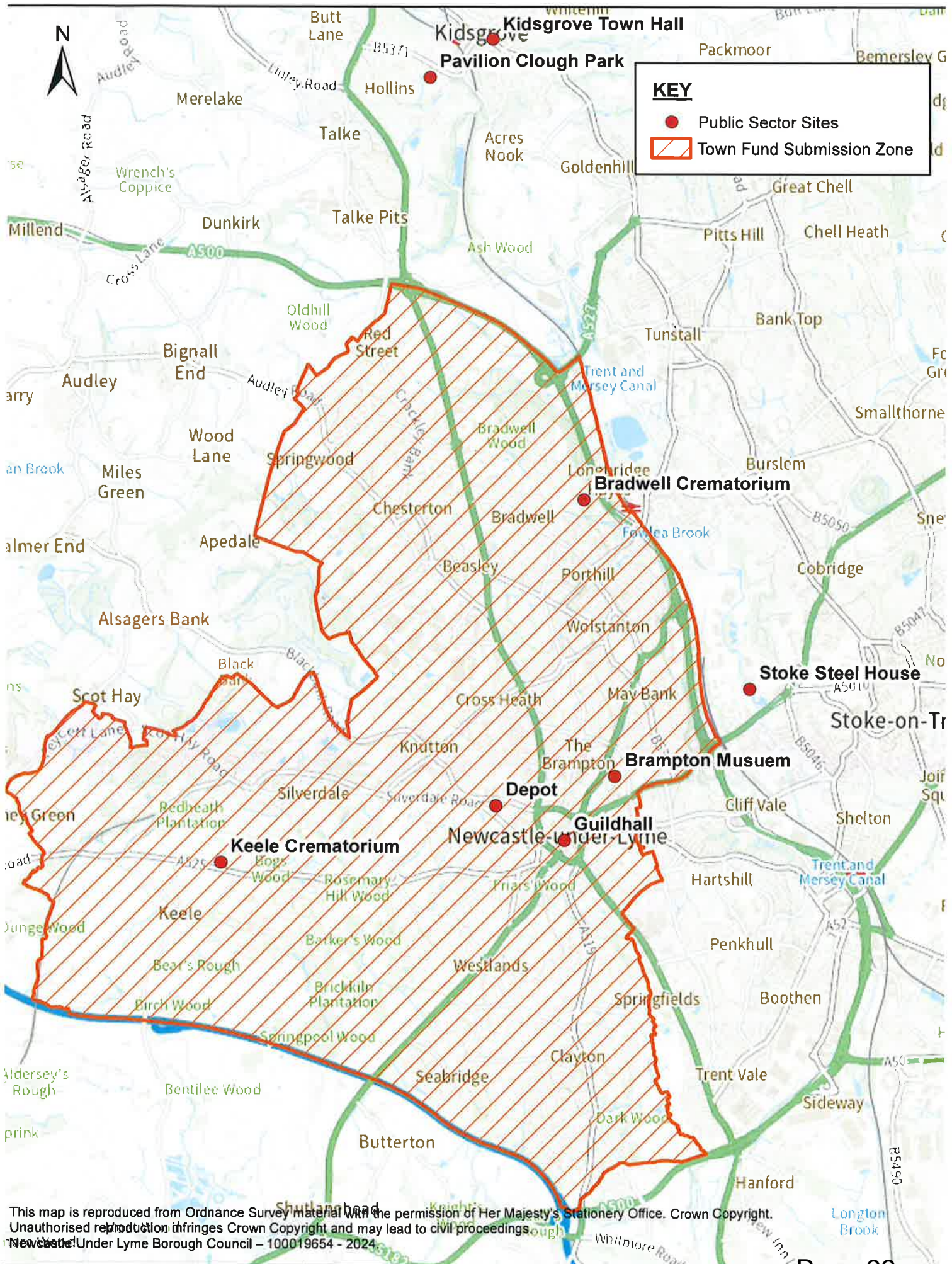
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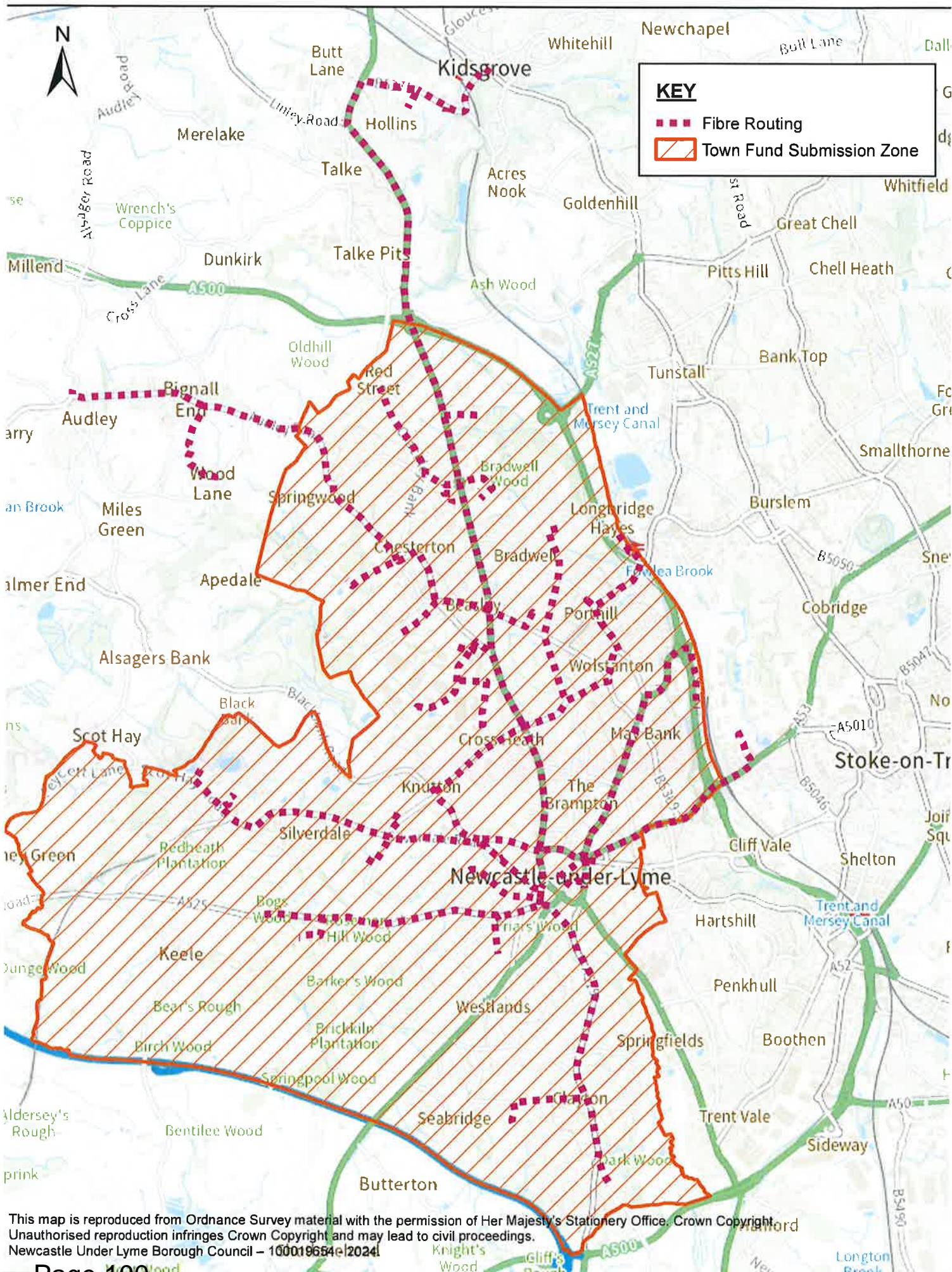
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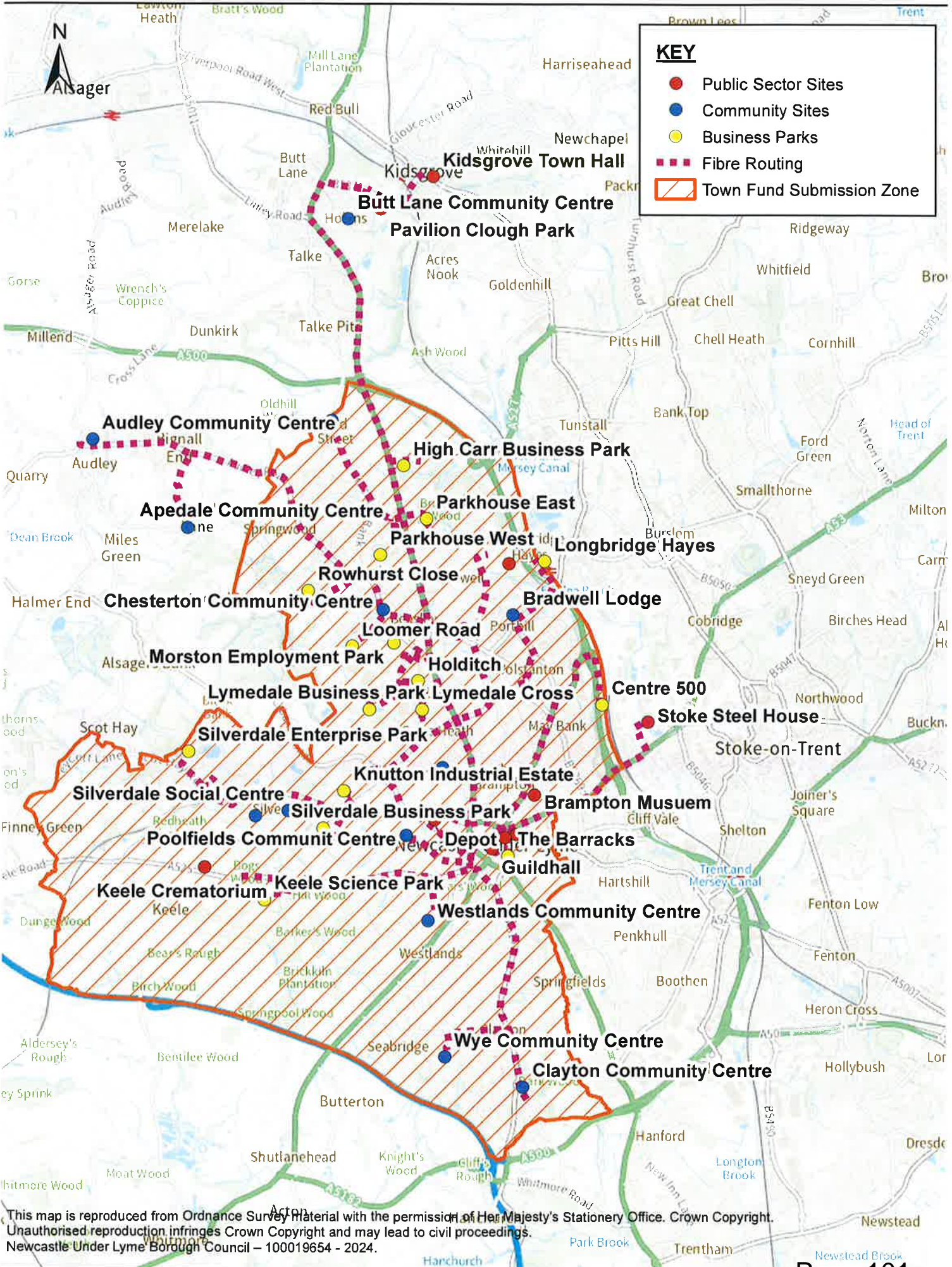
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## **Appendix D Requirements Definition**

### **Project Technical Specification**

Delivery will consist of spine fibre infrastructure and end site connections into public sector sites. The scope of the expected spine fibre and end site connections to be delivered are detailed in the attached schedule..

All deployed fibre infrastructure will be provided to Xxxxxx as "Dark Fibre". The fibre will be deployed using Openreach's Physical Infrastructure Access (PIA) and Duct and Pole Access (DPA) products, where possible in order to reduce build costs. The expectation from xxxxM is for PIA / DPA and where this is not possible a detailed breakdown should be provided along with a proposed solution and detail of any additional cost.

Routes should be built using Trial Rod & Rope (TR&R) to test PIA routes and where required Local Authority notices/ approvals for work/ traffic management.

The deployed fibre infrastructure will be delivered with open access 'T-Node' break out points where the sites are located as well as in mid-span joint locations, and other points agreed with Xxxxxx.

The connection should be as a ::

- 1) A point to point dedicated Dark Fibre pair installed between an "A" end Connection point and a "B" end connection point as defined in Appendix 2 for each such connection. Where the "B" end connection point is at a BT Exchange, termination will be in the joint handover chamber associated with that BT Exchange.

The connection may be either:

An "End Site" to Hub Site or BT Exchange.

A Backhaul connection from BT Exchange / Hub Site to BT Exchange / Hub Site.

Each fibre pair that has an "on premise" termination point will terminate at the site in a Supplier-provided Service Demarcation Point to be installed within 25m from the building entry point. There should be some flexibility around this especially in respect of offsetting longer internal fibre runs against ones that are significantly shorter than 25m.

The onsite termination point will be available for a communications provider to connect their service into.

For each site delivery a customer site survey will take place which will confirm the onsite termination point and identify any delivery issues. Where one end of a fibre connection is at an Openreach Exchange, the Spine cable will be left coiled and unterminated in the joint handover chamber.

Provided that a Communications Provider contracted by Xxxxxx has rack presence in the Exchange, the only additional cost to the Communications Provider to connect up service would be the purchase of a cable link product from Openreach. At the Exchange end of the service, the Spine cable will be left coiled and unterminated at the joint handover chamber, ready for connection to the Openreach cablelink.

Where the fibre terminates at a "Hub Site" this will be onto a rack within the Hub Site location.

All fibre deployed will conform to the International Telecommunication Union (ITU-T) G657.A1 standard.

It is anticipated that the project will deliver additional “spare” fibre pairs into the Town Fund Project ) in addition to those pairs stipulated in for xxx use:

Any “Spare” fibres delivered will be reported in an open and transparent way to xxxxx Whilst these “spare” fibres will be owned by the fibre provider and available for the fibre provider to benefit commercially from this will be on the understanding that:

- Spare fibres will be made available to third party providers on an Open access basis.
- Any “transit” revenue secured by the fibre provider as a result of selling transit capacity over these “spare” fibres, 25% of this revenue will be provided to xxx for investment in fibre infrastructure or other digital solutions that benefit the Borough.

Spare fibre shall be made available to any Communications Provider (CP) on an open access basis allowing the delivery of data connectivity services. The CP will have the option of taking an unlit or lit service from the Dark Fibre. All responsibility for the supply of any additional connectivity, hardware or services required by that CP to utilise the lit or unlit dark fibre shall wholly be the responsibility of that CP.

The Dark Fibre routes delivered will be updated and provided to xxx on an ongoing basis during the delivery of the project, and where there are any route changes. This information will be provided as a KMZ file for loading into Google Earth.

### **Indefeasible Right of Use (IRU)**

The fibre pairs provided to Xxxxxx in line with those listed in the attached schedule will be delivered by the fibre provider with an IRU. This IRU will be for a 15 Year Period from handover of the connection. The IRU will require the supplier to provide such maintenance services required for the proper functioning of any service delivered over the fibre, as Planned Outages, except in an emergency situation. The IRU will also require the supplier to respond to and fix any fibre issues in line with an agreed market leading SLA. There will be NO ongoing cost to xxx in respect of the IRU. Support cost for the full 15 year period will be included in the project cost.

### **Problem Handling**

Service support will be provided 24/7 365 and the Target Times to Repair (TTTR) for any interruption to the Service, including failure to achieve the transmission parameters detailed in Appendix 1 (Testing and Acceptance), will be from the time of receipt of the Outage Notice by The Supplier and are as follows:

Major Fault	6 hours
Minor Fault	8 Hours

Major fault would be one where any circuit cannot send or receive traffic.

If The Supplier fails to meet the above Time to Repair targets, The Customer shall be entitled to a Service Credit in line with an agreed schedule..

The Customer shall submit a request in writing for payment, within fifteen (15) Working days of the end of the calendar month in which the alleged breach of any SLA occurred. The Customer shall, in respect of each such request, provide to The Supplier such information regarding the alleged breach as The Supplier may reasonably request.

The Customer shall immediately notify The Supplier of any suspected Outage (having made all reasonable enquiry to verify that the underlying fault is the responsibility of The Supplier under the Agreement) by way of an Outage Notice and provide The Supplier with sufficient information and assistance (as required by The Supplier) to enable The Supplier to restore the Service. The Supplier will be entitled to charge the Customer a reasonable service fee at current charging rates on an on-site call-out basis minimum half day rate, if the need for any maintenance results from:

- (i) misuse or neglect of or accidental or wilful damage to the Equipment where such misuse, neglect or damage occurs on the Customer's side of the point of interconnect in the Sites; or
- (ii) failure by the Customer to comply with any of the provisions of the Agreement
- (iii) fault or other problem associated with the Customer Apparatus.

Faults may be reported to The Supplier Network Operations Centre ("NOC") 24 hours a day, 7 days a week at which time a Fault Reference Number will be issued.

The Supplier's target is to respond to The Customer within 30 minutes of receipt of the Outage Notice. The Supplier shall contact The Customer designated technical point of contact. It shall be The Customer's responsibility to provide The Supplier with accurate and up-to-date contact information for such point of contact, including a valid telephone number and/or e-mail address.

The Supplier will following the Outage Notice take all reasonable steps to restore the Service in accordance with the terms of the Agreement.

On notification of a fault by The Customer to The Supplier, The Customer shall perform all reasonable enquiries to verify that the underlying fault is the responsibility of The Supplier under the Agreement to the demarcation point as specified by The Supplier and shall co-operate fully with The Supplier NOC in order to locate any fault.



## Appendix 1 – Testing and Acceptance

This section covers the specific testing for the Dark Fibre Additional Connections.

### 1. DARK FIBRE CIRCUIT TESTING

#### 1.1. Acceptance Testing Specification

1.1.1. The Supplier's overall Dark Fibre design has taken into consideration the transmission parameters set out in the standard ITU-T G657 A1 characteristics of a single mode optical fibre and cable.

1.1.2. The full specification of the Dark Fibre is shown in Annex 1.

1.1.3. Testing will be carried out in accordance with industry standards.

1.1.4. The Customer will be presented with test results for each Connection with the following Transmission Parameters:

Attenuation Limit:

$\leq 0.25$  dB/km @1550nm

$\leq 0.36$  dB/km @1310nm

Splice Loss Specification:

$\leq 0.20$  dB max splice loss on any single splice

Dispersion:

1310 -  $< 2.8$ ps/nm.km

1550 -  $< 17$ ps/nm.km

Connector Loss:

$< 0.5$  dB per connector

Optical Return Loss:

$> -37$ dB

### 2. ACCEPTANCE TESTS

The following key tests will be undertaken by The Supplier and its Sub-contractor:

#### 2.1. Optical Time Domain Reflectometer (OTDR)

2.1.1. OTDR tests shall be performed on each fibre presented to determine the attenuation of the fibre and quality of each splice. The OTDR tests will be carried out bi-directionally at 1310nm and 1550nm from each Connection Point in a Connection via any intermediate cross connect points in the network. The tests will measure the fibre optic length, attenuation coefficient, connector loss and splice losses. Measured losses should not exceed the optical budget requirements detailed in the table above.

2.1.2. The splice loss figure in the applicable performance specification is measured by averaging OTDR step-in traces in both directions at 1310nm and 1550nm.

#### 2.2. Launch Leads

2.2.1. The geometry and overall specification of the fibre within the launch lead should be compatible with that of the optical fibre to be tested. Launch leads intended for connection to OTDR equipment shall be of a length suitable to give unambiguous readings (a calibrated 1km coil) to the optical fibre and cabling components under test. Also the lead should be terminated at one end with a connector of the same design, style and manufacture as used on the fibre optic span to be tested.

#### 2.3. Optical Loss Measurements (Power through measurement)

2.3.1. Optical loss measurements or Insertion Loss Measurements (ILM) to gauge end-to-end attenuation shall be performed **bi-directional** on each fibre at 1310nm & 1550nm. Measured losses should not exceed the optical budget requirements detailed in the table above. The ILM will be performed after acceptance of the OTDR results. This will be carried out from the ODF connectors at both A ends and B ends.

2.3.2. The expected ILM will be calculated at 1550nm as follows:

Route Km x 0.22dB + (No of Joints x 0.2dB) + 1dB connector losses = ILM

The expected ILM will be calculated at 1310nm as follows:

Route Km x 0.35dB + (No of Joints x 0.2dB) + 1dB connector losses = ILM

### 3. PRESENTATION OF TEST RESULTS

- 3.1. Test results will be presented to The Customer within a completion certificate. The Customer completion certificate will be emailed to The Customer's project lead as described in Schedule 5 Implementation.
- 3.2. Results will contain the following information:
  - The name of the person who performed the tests
  - The type of test equipment and serial number and calibration certificate upon request
  - A unique reference per fibre tested (Connection ID)
  - OTDR trace of each fibre tested
  - From the A-End Connection Point to the B-End Connection Point e From the B-End Connection Point to the A-End Connection Point
  - Event type
  - Attenuation
  - Return loss e Distance in Km
  - Pulse width e Loss measurements
- 3.3. The power loss measurements will be delivered as follows.
  - Calibration results
  - Reference power
  - Reference power variation (before and after measurement).

### 4. TESTING OF NON-DARK FIBRE CIRCUITS

- 4.1. The Supplier will carry out internet performance (iPerf) testing of each non-dark fibre circuit by connecting an iPerf tester at each end of the circuit to measure the download and upload throughput bandwidths, and any latency, jitter and packet loss levels, of the circuit.
- 4.2. The iPerf tester works by generating data traffic from a computer acting as a client which is sent to the IP address of a computer acting as the server. Bandwidth is measured by Transmission Control Protocol (TCP) tests which are geared to show an actual representation of the network speeds being received.
- 4.3. To carry out the testing, one of The Supplier's field engineer will connects an iPerf tester at one end of the circuit and a second field engineer will connect another iPerf tester at the other end of the circuit.
- 4.4. Measures will be:
  - Bandwidth will be measured in Gigabytes per second (Gbps)
  - Jitter and Latency will be measured in milliseconds (ms)
  - Packet loss will be measured as a percentage of packets lost with respect to packets sent (%)
- 4.5. The bandwidth and jitter, latency and packet loss measurements of the circuit are recorded on an Acceptance Test Certificate and issued to The Customer for approval as described in Schedule 5 Implementation.

### 5. MI REPORTING

- 5.1. Following Testing and Accepting, The Supplier will support The Customer in completion of the required Management Reporting templates as defined below  
[insert reporting requirements]

## 6. DARK FIBRE SPECIFICATION

Issue D 23<sup>rd</sup> July 2019 Page 1 of 2

### Blown Mini Cable 144f Singlemode



#### Application

Optical mini cable for installation into microducts by blowing using air at pressures up to 15 bar using industry standard equipment. Examples of installation equipment are the CBS Airstream, Breeze, and Plumettaz MiniJet. Recommended minimum microduct bore 10mm.

#### Features and Benefits

Sheath:	Low friction for improved installation performance
Stripping:	Ripcord provided for quick and easy sheath removal
Colour coding:	Individually colour coded loose tubes for easy identification
Water Blocking:	Dry core with water swellable elements. Gel-filled loose tube.

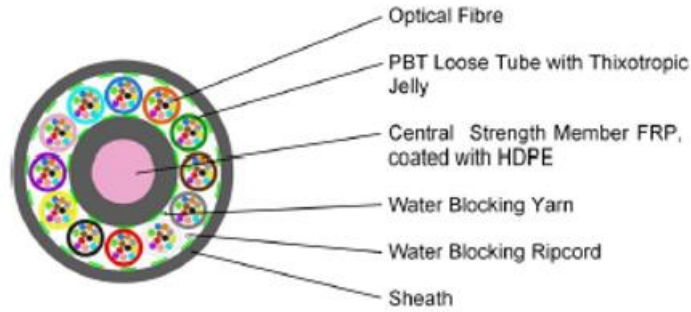
#### Technical Data

	Cable Option A	Cable Option B
Fibre Specification	ITU-T G.657A1, G656 or G.652D options available	
Standards	IEC 60794-1-2	
Stranding	SZ	
Central strength member	4.5mm (3mm FGRP with PE sheath)	4.5mm (2.1mm FGRP with PE sheath)
Number of tubes	12	
Loose tubes	1.45mm nominal diameter	
Fibres per tube	12	
Outer sheath	0.5mm minimum thickness, HDPE (nylon option available)	
Outer sheath colour	Black or customer requirement	
Cable outer diameter	8.5 mm nominal	
Cable mass	58 kg/km nominal	
Maximum tensile load	580 N	
Crush resistance	700 N (100 mm plate)	
Minimum bend radius	20 x outside diameter	
Temperatures	Storage/Transport: -20°C to +70°C Installation: -10°C to +50°C Operating: -20°C to +60°C	
Storage Time on Drum	12 months (recommended maximum)	
Fibre Attenuation (20°C)	0.36 dB/km max at 1310 nm and 1383 nm 0.25 dB/km max at 1550 nm	

Note - Cable Option B has been developed with a smaller central strength member making it more flexible, predominantly for the UK market, where the cable runs tend to have more bends. Cable Option A is most suited for blowing into longer straight routes.



**CONSTRUCTION**



**FIBRE AND TUBE IDENTIFICATION**

Colours to EIA 598 or customer requirement

No.	1	2	3	4	5	6	7	8	9	10	11	12
Colour	Blue	Orange	Green	Brown	Grey	White	Red	Black	Yellow	Violet	Pink	Aqua

**SHEATH MARKING**

Marked every 1m with standard Emtelle printing or to customer requirement

Emtelle Fibreflow – <<Year>> – 144f <<Fibre Type>>, <<Product Code>> –<< Batch ID>> – <<Meter Mark>>

**PRODUCT CODES**

Product Code	Description	Option
90081	144F MINICABLE G657A1 BLACK	A
90317	144F MINICABLE G652D BLACK	A
91143	144F MINICABLE G657A1 BLACK	B
91144	144F MINICABLE G652D BLACK	B

End of Document

DRAFT

## Appendix E: Procurement Option Appraisal

### Procurement Options and Analysis:

Procurement Option	Advantages	Weaknesses	Case Studies
<p><b>RM6095</b></p> <p>Crown Commercial Framework Agreement ends September 2025. Focus on delivering fibre connectivity to public sector sites</p>	<ul style="list-style-type: none"> <li>- Over 60 Aggregators, Commercial Fibre &amp; Wireless Carriers on the Framework</li> <li>- Would accelerate Procurement</li> <li>- Recognised by the Market</li> <li>- T&amp;C's already accepted by participating companies</li> <li>- Provides option to evaluate based on local requirements</li> <li>- Procurement within 2 months</li> <li>- Reduce costs</li> </ul>	<ul style="list-style-type: none"> <li>- No option for dialogue but this can be addressed by soft market testing pre procurement</li> </ul>	<p>Adopted by a number of DCMS LFFN Projects as well as Council WAN Procurements (Wakefield Council)_</p>
<p><b>RM6116</b></p> <p>New Network Services 3 Crown Commercial DPS Framework covering three LOT's relating to Data Access &amp; Local Connectivity Services</p> <p>Replacement for RM3808</p>	<ul style="list-style-type: none"> <li>- Over 60 Aggregators, Commercial Fibre &amp; Wireless Carriers on the Framework</li> <li>- Not restricted to public sector sites (village halls etc)</li> <li>- Both LOT's could be applicable</li> <li>- Recognised by the Market</li> <li>- T&amp;C's already accepted by participating companies</li> <li>- Provides option to evaluate based on local requirements</li> <li>- Preferred route of DCMS</li> <li>- Procurement within 2 months</li> <li>- Reduce costs</li> </ul>	<ul style="list-style-type: none"> <li>- No option for dialogue but this can be addressed by soft market testing pre procurement</li> <li>- Reduces flexibility to address local aspirations can be addressed by presenting a very clear specification</li> </ul>	<p>Already being adopted by a number of local authorities since its launch in August 2023 and is regarded as the main procurement channel for fibre infrastructure procurements</p>
<p><b>IPTD Local Procurement</b></p> <p>Initiate a local procurement process</p>	<ul style="list-style-type: none"> <li>- More local requirement focused</li> <li>- Ability to negotiate and secure a more focused outcome</li> </ul>	<ul style="list-style-type: none"> <li>- Although £2.0M of funding may not offer the scale and value to justify an IPTD</li> </ul>	<p>Local procurement adopted when scale is achieved ie</p>

<p>which include an element of restricted competitive dialogue</p>	<ul style="list-style-type: none"> <li>- Ability to leverage social value</li> <li>- Will not exclude any companies not included on the frameworks may ensure greater involvement from local companies</li> <li>- Ability to negotiate could offer opportunities to leverage best value</li> </ul>	<ul style="list-style-type: none"> <li>- View of the market could create additional expense in bidding which could be difficult to justify and could reduce interest</li> <li>- Would take between 3-5 Months to complete</li> <li>-</li> </ul>	<p>Leeds CC or at a County Council level</p>

## Appendix F: Risk Assessment

As part of the business case development and evaluation a risk assessment has been undertaken and is detailed below. In considering this assessment this Report would wish to highlight the fact that this proposal is not a concept but has already been successfully implemented by other local authorities with a focus on real and tangible outcomes.

Risk	Mitigation
Who will be monitoring the fibre? – will this fall to the Council?	The monitoring and maintenance of the fibre will be assumed by the delivery partner and will be specified within the procurement requirements
Council Right of Use could this be revised or removed	The 15 Year IRU will be captured within the procurement specification and will be protected under contract
Cost of deployment could the Council be subject to additional costs during the deployment phase?	The procurement process will require a fixed guaranteed cost. During the project delivery stage additional costs may emerge in the guise of excess charges (ducting damage) but will be balanced against the budget available and will either be funded through savings made or sites are dropped to ensure that we remain within budget. This is a process which has been successfully delivered and ensure that the original budget was not exceeded
Cost of taking a service could it be more expensive than the service currently being delivered?	Based on an assessment of the current opex costs of the service provision to council sites and benchmarking these current costs against a similar project to that proposed costs should be reduced by at least 60% per annum
Is there long term value in funding such infrastructure?	<p>Availability of fibre under the terms described will align and be an enabler for the Councils long term strategic approach to delivering cloud based council services based on zero trust principles. This proposal has been shared and discussed with Digital Services and has received support in principle.</p> <p>Will be adopting an approach which is now becoming a common strategy across local authorities with a move to internet only services as opposed to the traditional model of one provider providing connectivity.</p>

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## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### CORPORATE LEADERSHIP TEAM'S REPORT TO CABINET

19 MARCH 2024

**Report Title:** Electric Vehicle Charging Points for Castle Car Park

**Submitted by:** Deputy Chief Executive

**Portfolios:** Finance, Town Centres and Growth

**Ward(s) affected:** Town

<u>Purpose of the Report</u>	<u>Key Decision</u> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
To award the contract for the provision of Electric Vehicle Charging Points at Castle Car Park to Zest Eco Ltd.	
<b><u>Recommendation</u></b>	
<p><b>That Cabinet:</b></p> <p style="padding-left: 40px;"><b>1. Authorises the Deputy Chief Executive in consultation with the Portfolio Finance, Town Centres and Growth to enter into a contract with Zest Eco Ltd for the installation, management and maintenance of electric vehicle charging points at Castle Car Park.</b></p>	
<b><u>Reasons</u></b>	
To enable delivery of this key piece of infrastructure for the new Castle Car Park at Ryecroft.	

## 1. **Background**

- 1.1 Cabinet has previously considered construction of the multi storey car park at Ryecroft and at its meeting of 6 June 2023 approved the award of the main construction contract through the Pagabo framework to Morgan Sindall. Now that construction of the car park structure has progressed it is necessary to consider infrastructure items that will enable the car park to operate. One such item is the provision of electric vehicle (EV) charging points which is the subject of this report.
- 1.2 EV chargers are a piece of necessary infrastructure as the transition from fossil fuel vehicles continues. Installation of chargers at Castle Car Park is designed to respond to this transition as a greater number of drivers transition to electric vehicles. In addition to visitors to the town the car park

is also likely to serve new residential development and the hotel development that are also proposed to be delivered at the Ryecroft site.

## 2. Issues

- 2.1 In procuring an EV charging provider, the Council undertook early market engagement, looking to engage with organisations that could offer a fully funded solution i.e. one that would offer EV charging at the new car park at zero cost to the Council. As it appeared there were several organisations that could offer such a solution, the Council decided to utilise a compliant framework. Accordingly, Officers engaged with Crown Commercial Solutions which had a relevant framework (RM6213 Vehicle Charging Infrastructure Solutions).
- 2.2 Through a process of filtering and requests for further information 6 providers were subsequently invited to tender. Following this there was only one organisation that was interested in engaging. This was a company called Zest.Eco Ltd (Zest Eco). Following further negotiation, it is proposed to make an award to Zest Eco.
- 2.3 Zest Eco is an accredited end-to-end EV charge point operator. It can access the £420 million Charging Infrastructure Investment Fund (CIIF), which is funded by a combination of UK Government funding and private investment. This mechanism enables Zest to offer the fully funded model to the Council. Zest Eco has achieved B Corp status and has carbon neutral certification. Zest Eco is also one of the largest EV charge point operators in the UK.
- 2.4 The fully funded model operated by companies such as Zest Eco minimises risk to the Council in that Zest is responsible for all build risk, utilisation risk and operational risk with transfer of the asset at the end of the contract. This model provides access to additional future investment from Zest Eco to increase the number of chargers and redeploy hardware to meet evolving needs. The benefits of the Zest Eco model are:
- Financial security, Zest is backed by the Government via CIIF.
  - 100% project funding
  - Provision of charge point and ancillary hardware, including installation and signage.
  - 20-year arrangement to provide assurance of continuity
  - Management, payment, and back-office systems including a driver app and 24/7 driver support.
  - Mapping platform and satellite navigation inclusion.
  - Long term maintenance and renewal.
  - 99% average uptime.
  - Zest is carbon neutral and committed to renewable energy.
- 2.5 The initial proposal from Zest Eco is to install two 50Kw DC chargers and nine 22Kw AC chargers covering 22 parking bays with a commitment to expand further as demand increases.

## 3. Recommendation

- 3.1 That Cabinet Authorises the Deputy Chief Executive in consultation with the Portfolio Finance, Town Centres and Growth to enter into a contract with Zest



#### **4. Reasons**

- 4.1 To deliver on the Council Plan Objectives as they relate to Newcastle Town Centre.
- 4.2 To pursue actions in line with the Council's Environmental Sustainability Strategy and Car Parking Strategy.
- 4.3 To deliver projects in line with the Council's Future High Street Fund bid.
- 4.4 To enable EV charging to be provided in the new Castle Car Park.

#### **5. Options Considered**

- 5.1 In line with public sector procurement requirements in public procurement the contract opportunity has been competitively tendered to provide engagement with the EV charging market.
- 5.2 The supplier funded option is the preferred model as the Council would not have the resources to manage and maintain the system or to be able to expand provision or update the EV chargers as technology changes occur.

#### **6. Legal and Statutory Implications**

- 6.1 The arrangement requires the Council to enter into a long term, 20-year, EV charging infrastructure lease with Zest Eco to enable the equipment to be installed and maintained and to facilitate an income share arrangement for the revenue generated from the EV Charging points.

#### **7. Equality Impact Assessment**

- 7.1 No differential impact has been identified. The EV charging points will be accessible to any driver using the car park and specific provision has been made for EV charge points for accessible parking bays.

#### **8. Financial and Resource Implications**

- 8.1 The arrangement with Zest Eco is a 20 year fully managed service which provides the Council with access to future additional investment from Zest Eco to increase the number of chargers as demand increases. The lease will give Zest Eco certain rights of access to provide and maintain the EV charging infrastructure.
- 8.2 Typically, in such arrangements, the provider (in this case Zest Eco) will fund the infrastructure required to set up, maintain and run the charging points and any associated costs such as electricity supply. On this basis it is at no cost to the landowner, in this case the Council. Of the income generated, the Council will receive a small percentage which will realise a modest annual income for the Council. The Council's agreement with Zest Eco will reflect such an arrangement.

- 8.3 Car users will pay for car parking fees as normal through the Pay and Display regardless of if they are charging or not. Use of the chargers is a separate charge.
- 8.4 As previously reported to Cabinet, the overall Castle Car Park is being funded from a combination of Future High Street Fund, Town Deal (which are funding separate elements) and a Council capital contribution. The arrangement with Zest further contributes to delivery of the car park in the most cost effective way for the Council.

## 9. **Major Risks & Mitigation**

- 9.1 This proposal offers a low-risk option for the Council as Zest Eco is liable for the provision, management, maintenance, and replacement of the EV chargers.
- 9.2 There is provision in the arrangement for the number of EV charging points to be increased when demand requires this.
- 9.3 In the short term the uptake of local people using electric vehicles may be low but as people invest in new vehicles this will mean that more drivers are looking for EV charging points when they are parking their vehicle.
- 9.4 There is a risk that few drivers choose to charge their vehicles on site if the cost is too great, it is however in Zest Eco's interest to make their chargers competitive in the market so that they generate income.

## 10. **UN Sustainable Development Goals (UNSDG)**

- 10.1 The proposal contributes to the following USNSDG



## 11. **Key Decision Information**

- 11.1 Castle Car Park is in Town Ward although users of the car park will be drawn from a wider area.
- 11.2 The proposal from Zest Eco is a fully funded option that does not require investment from the Council beyond that already committed in building the multi storey car park.

## 12. **Earlier Cabinet/Committee Resolutions**

- 12.1 October 2019, Cabinet concerning development of the second stage Future High Street Fund bid and procurement of consultancy support.
- 12.2 December 2019, Economy Environment & Place Overview and Scrutiny Committee Town Centre Funding Update (information item)

- 12.3 July 2020, Cabinet concerning approval for submission of bid into MHCLG
- 12.4 April 2021 Cabinet accepting Future High Street Fund Grant monies and grant conditions.
- 12.5 December 2021 Cabinet Contract Award to Morgan Sindall
- 12.6 March 22 Cabinet Ryecroft Update
- 12.7 January 2023 Cabinet update report on progress made on the multi-storey car park project.
- 12.8 June 2023 Cabinet, Castle Car Park Multi-Storey Car Park Contract Award.

### **13. List of Appendices**

13.1

### **14. Background Papers**

14.1 Zest Public Sector Overview

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**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**CORPORATE LEADERSHIP TEAM'S  
REPORT TO CABINET**

**19 March 2024**

**Report Title:**           **Tree and Biodiversity Management Plan**

**Submitted by:**        Service Director – Sustainable Environment

**Portfolios:**            Sustainable Environment

**Ward(s) affected:**    All

<b><u>Purpose of the Report</u></b>	<b><u>Key Decision</u></b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
To seek Cabinet approval for the adoption of the tree and biodiversity management plan which sets out the Council's approach to managing its current and future tree stock as well as planted meadowland.	
<b><u>Recommendation</u></b>	
That Cabinet: <b>Approves the Tree &amp; Biodiversity Management Plan</b>	
<b><u>Reasons</u></b>	
Effective management of the Councils existing and future tree stock is vital in ensuring risk is minimised and contributes positively to the Council's and Borough's Carbon reduction targets. Having an effective Management Plan, formally adopted, and reviewed and updated as necessary is vital in providing assurance that the Council's tree stock is adequately managed.	

**1.    Background**

**1.1**    The Council adopted its Sustainable Environment Strategy (SES) in December 2020. The Strategy is a landmark document that sets out the Council's commitment to the sustainable environmental future of the Borough and is an over-arching strategy, under which a range of other linked and related plans and initiatives sit.

**1.2**    There are 4 Priority Outcomes associated with the Strategy as follows:

- Reduce the reliance on the use of fossil fuels.
- Reduce carbon and other damaging emissions.
- Minimise waste and increase recycling.
- Offset residual carbon emissions.

- 1.3 As part of the Council's SES protecting and enhancing biodiversity plays a major part in tackling climate change, and since 2018 the Council has focused work programmes such as tree planting, though its urban tree planting strategy, and planting wild flower meadows on land within its ownership.
- 1.4 To date nearly 15,000 trees have been planted in the first four phases of the Urban Tree Planting Strategy.
- 1.5 Biodiversity is a necessity in the Borough as it encompasses the variety and quantity of flora and fauna in the area and the more biodiverse an area is, the more healthy, resilient and more fertile the environment is. A biodiverse Borough therefore increases food security, climate change resilience, clean water, sanitation and many more other societal and environmental needs that are described by the United Nations Sustainable Development Goals. (UN SDG's)

## **2. Issues and progress to date.**

- 2.1 Planting trees and wildflower meadows requires management moving forward, to ensure effective survival rates, and to ensure risks are adequately managed for the future.
- 2.2 One issue the Council has to address is new tree planting survival risk, which is the risk that 10% to 25% of new tree developments may not survive into maturity due to a multitude of factors such as adverse weather and climate, water and nutrient stress.
- 2.3 A comprehensive service review into how the Council manages its tree stock was undertaken in 2018, and £30,000 additional expenditure was identified to be incorporated into the Council's arboriculture work programme to effectively and sustainably manage tree work operations. This includes procurement of third party contractors to support the Council's own resources in inspection and management of the Councils tree stock.
- 2.4 The Council is now operating its second term contract with Thompsons Tree Care.
- 2.5 The Council has now formulated a Tree and Biodiversity Management plan, which focuses on tree and wildflower meadow planting and how these are managed moving forward.
- 2.6 The objectives of the Tree and Biodiversity Management plan are to:
  - Ensure the Council continues to manage and progress required tree work in relation to the Council's current and future tree stock.
  - Increase tree inspections within the Borough to reduce the risk of litigation and to ensure felled trees are replaced appropriately.
  - Support succession planning for the Council's tree team
  - Ensure the Council continues managing and promoting wildflower areas to positively impact the environment

- Maintain and enhance the Council's current tree stock and biodiversity developments
- Ensure the Council is following all biodiversity Net Gain (BNG) and Local Nature Recovery Strategy (LNRS) guidance for new and current developments.

**2.7** The Tree and Biodiversity management plan includes a risk and progress tracker which measures and records issues and progress of the current biodiversity operations which have been mapped out into a risk and progress tracker to visualise the current risks and mitigations that have been and are being put in place to reduce that risk.

**2.8** The risk and progress tracker uses a Red, Amber Green (RAG) progress tracker, where Green = Progressing Well, Amber = Progressing and Red = Progressing not as quickly as the Council predicted.

**2.9** Current progress to date is listed below :

- Hired a new Arboricultural Manager in Streetscene
- Implemented a new software management system (Ezytreev) to identify and manage the council's current and future tree stock of 111,861 trees
- Purchased a mobile Elevated Work Platform Vehicle and Tracked Chipper to reduce risk and inefficiencies
- Planted 14,947 trees over 21 sites since the launch of the Urban Tree planting Strategy (2021)
- Planted 11 'Lindum' wildflower Meadow sites around the Borough with 27 different species of wildflowers
- Sustained regular maintenance and care for tree and wildflower developments in the Borough.

**2.10** The tree and biodiversity plan also details how a managed planting scheme for trees and wildflower meadows can create effective Carbon Sequestration, the process of absorbing and storing carbon out of the atmosphere, which will play a significant contribution to the Council's net zero target for its own operations by 2030 and the wider Borough by 2050.

### **3. Recommendation**

**3.1** That Cabinet approves the Tree and Biodiversity management plan.

### **4. Reasons**

**4.1** Effective management of the Council's existing and future tree stock is vital in ensure risk is minimised and contributes positively to the Council's and Borough's Carbon reduction targets. Having an effective Management Plan, which is formally adopted, and can be reviewed and updated as necessary is

vital in providing assurance that the Council's tree stock is adequately managed.

## **5. Options Considered**

- 5.1** Do nothing is not an option, the risks associated with not adequately planning for managing the Council's tree stock, are very high.

## **6. Legal and Statutory Implications**

- 6.1** There are no legal or statutory implications arising from this report.

## **7. Equality Impact Assessment**

- 7.1** There are no equality impact issues arising from this report.

## **8. Financial and Resource Implications**

- 8.1** Management of the Council's current and future tree stock is covered as part of the Council's medium term financial system (MTFS) and is fully budgeted for.
- 8.2** The current budget for agricultural works which support the management of the Council's tree stock is £30,000 per year.

## **9. Major Risks & Mitigation**

- 9.1** Not having effective and appropriately resourced management of the Council's tree stock, and monitoring of the condition of trees, puts the Council at significant risk.
- 9.2** The Council's Tree and Biodiversity Management Plan sets out how the Council will manage and adequately resource the management of its tree stock, which can and will be subject to review and development moving forward.

## **10. UN Sustainable Development Goals (UNSDG)**

- 10.1** The Tree and Biodiversity Management Plan supports a number of the UNSD Goals, and supports the Council's plan in becoming net zero for its own operations by 2030, and the wider Borough by 2050.





**11. Key Decision Information**

11.1 The report is not a key decision.

**12. Earlier Cabinet/Committee Resolutions**

12.1 None

**13. List of Appendices**

13.1 Tree and Biodiversity Management Plan:

<https://www.newcastle-staffs.gov.uk/downloads/file/2139/tree-and-biodiversity-management-plan>

**14. Background Papers**

14.1 None

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**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**CORPORATE LEADERSHIP TEAM'S  
REPORT TO**

**Cabinet  
19 March 2024**

**Report Title:** Contract Award for Wammy Football Changing Room Development

**Submitted by:** Deputy Chief Executive

**Portfolios:** Finance, Town Centres and Growth and Leisure, Culture and Heritage and One Council, People & Partnerships

**Ward(s) affected:** Cross Heath, Knutton

<b><u>Purpose of the Report</u></b>	<b><u>Key Decision</u></b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<p>To provide Cabinet with an update on the progress on the new Wammy Football Changing facilities and to recommend an award of a construction contract to the successful bidder following a competitive procurement exercise via MyTenders to construct the new facilities.</p>	
<b><u>Recommendation</u></b>	
<p><b>That Cabinet:</b></p> <ol style="list-style-type: none"> <li>1. <b>Notes the progress on the project to deliver Football Changing facilities at the Wammy.</b></li> <li>2. <b>Authorise the Deputy Chief Executive, in consultation with the Portfolio Holders for Finance, Town Centres &amp; Growth and One Council, People &amp; Partnerships, to complete post tender negotiations and to progress all legal agreements to enable appointment of a contractor to construct the Football Changing Facilities at the Wammy.</b></li> <li>3. <b>Authorise the Deputy Chief Executive, in consultation with the Portfolio Holders for Finance, Town Centres &amp; Growth and One Council, People &amp; Partnerships, to construct the Football Changing Facilities at the Wammy.</b></li> </ol>	
<b><u>Reasons</u></b>	
<p>To deliver on the aims of Newcastle Town Deal Investment Plan, specifically the Knutton Village Masterplan project and on the aims of the Council's Playing Pitch Strategy 2021.</p> <p>To enhance local facilities for the residents of Knutton and Cross Heath and support opportunities for active leisure and participation in sport.</p>	

**1. Background**

- 1.1 For a number of years, the Council has been working with partners to develop and deliver the Knutton Village Masterplan "Putting the Heart into Knutton Village." This masterplan sets out proposals for a range of interventions in and around Knutton village, including new housing development together with modernising

and improving community, business, and leisure infrastructure for the village. Cabinet has considered the Knutton Village Masterplan at previous meetings.

- 1.2 The Knutton Village Masterplan has been consulted on with residents on several occasions, including during the initial development of the masterplan itself and also through the Town Deal funding process. Delivery of the Masterplan aspirations will rely on a combination of funding sources according to what aspect is being delivered, see Section 8 Financial Implications below.
- 1.3 This report concerns delivery of the Football Changing Rooms at the Wammy. Whilst delivery of this facility stems from the Knutton Village Masterplan, the proposed location of the changing rooms sits within Cross Heath Ward and is likely to serve residents from both Cross Heath and Knutton and also a wider area of the Borough.
- 1.4 Delivery of Football Changing Facilities at the Wammy aligns with the aspirations of the Council's Playing Pitch Strategy 2021, which states the need for ancillary facilities, such as changing rooms at the Wammy to develop its role as a hub for football.
- 1.5 The Council previously tendered this contract in the spring of 2023 and a Cabinet report in July 2023 approved the acceptance of a tender from Dawn Building and Groundwork Limited, but they withdrew their offer / tender shortly after the Cabinet decision due to construction cost inflation, which necessitated the re-tendering of the works.

## 2. **Issues**

- 2.1 The Council has engaged with Newcastle Town Football Club to drive forward provision of football at the Wammy. Newcastle Town Football Club already operate playing pitches at the Wammy under a tenancy at will. As a large and experienced grassroots affiliated football club they are ideally placed to deliver football activity on the site and to reach out to surrounding communities. It is intended that they will take on operation of the football changing rooms once complete.
- 2.2 The Council has also worked with the Football Foundation and Staffordshire Football Association to attract Football Foundation funding to support development of the changing room facility and to ensure, that in addition to delivering on Council and Town Deal objectives, the new facilities meet the required Football Association standards for changing facility provision. The previous Cabinet report in July 2023 approved the acceptance of the Football Foundation funding and the use of the capital programme allocation.
- 2.3 Funding for the football changing rooms is from several sources outlined in the financial implications section 8 below.

## 3. **Recommendation**

That Cabinet:

- 3.1 Notes the progress on the project to deliver Football Changing facilities at the Wammy.

- 3.2 Authorises the Deputy Chief Executive, in consultation with the Portfolio Holders for Finance, Town Centres & Growth and One Council, People & Partnerships, to complete post tender negotiations and to progress all legal agreements to enable appointment of a contractor to construct the Football Changing Facilities at the Wammy.
- 3.3 Authorise the Deputy Chief Executive, in consultation with the Portfolio Holders for Finance, Town Centres & Growth and One Council, People & Partnerships, to construct the Football Changing Facilities at the Wammy.

#### 4. **Reasons**

- 4.1 To deliver on the aims of Newcastle Town Investment Plan for Town Deal, specifically the Knutton Village Masterplan project and also on the aims of the Council's Playing Pitch Strategy 2021.
- 4.2 To enhance local facilities for the residents of Knutton and Cross Heath and support opportunities for active leisure and participation in sport.

#### 5. **Options Considered**

- 5.1 Whilst the use of a compliant procurement framework was considered this solution did not offer an opportunity to directly engage and work with local construction companies. In compliance with both internal governance procedures and Public Contract Regulations 2015 the Council published a contract notice on the My Tenders (Contracts Finder) website. On the closing date for tenders, two submissions were received, and subsequently assessed by the appointed Quantity Surveyor, the outcome of which was that there was only one fully compliant bid.
- 5.2 A 'do nothing' option would not deliver on the aims of Knutton Village Masterplan or the Council's Playing Pitch Strategy 2021.
- 5.3 Use of external funding to support delivery of the football changing facilities enables the Council to deliver the football changing facilities more quickly than if it were to wait for further Section 106 monies to enable the project to proceed.

#### 6. **Legal and Statutory Implications**

- 6.1 Section 2(1) of the Local Government Act 2000 permits local authorities to do anything they consider likely to promote or improve the economic, social, and environmental well-being of their area. That would include actions to deliver actions within the Knutton Village Masterplan.
- 6.2 The Council will enter into a JCT contract with Dawn Building and Groundwork Limited for the construction of the changing facilities.

#### 7. **Equality Impact Assessment**

- 7.1 The project is located next to some of the most deprived communities in the Borough when measured on the Index of Multiple Deprivation. It is in an

accessible location, with good walking and cycling connections which enables access by non-vehicular means.

- 7.2 The Council is working with the Club to reach out to surrounding communities which are mainly lower socio-economic groups, Knutton, has two LSOAs (Lower Super Output Areas) that have levels of deprivation significantly higher than the national average. Cross Heath has three LSOAs and all these experience above-average levels of deprivation. In Silverdale two LSOAs experience above-average levels of deprivation. In all three areas deaths from coronary heart disease are higher than the England average and there are issues with rates of obesity amongst children at reception and year 6 higher than the national average.
- 7.3 The provision of changing rooms is intended to overcome some of the perceived barriers to participating in football on an open field such as the lack of toilet provision, space for changing and the provision of lockers to secure valuables whilst playing. In line with Football Association guidelines accessible changing facilities are being provided in the new facility. Newcastle Town Football Club is already undertaking to attract interest from players and teams that cater for people with a disability.
- 7.4 The Council is working with Newcastle Town Football Club to use their expertise in reaching out to local communities, harder to reach groups and to draw on their expertise in elements such as the development of progression pathways within girl's football.

## 8. **Financial and Resource Implications**

- 8.1 This project requires the outlay of capital that is already allocated within the Council Capital Programme, it additionally requires the expenditure of Section 106 monies that are allocated to the Wammy and funding from the Knutton Village Project element of Newcastle Town Deal which is in line with the project business case. The funding breakdown is:
- a. £260,000 from Section 106 contributions received by the Council.
  - b. £200,000 Council Capital allocation.
  - c. Football Foundation grant £250,000.
  - d. The Knutton Village Masterplan element of Newcastle Town Deal which will fund the balance of the capital requirement.
- 8.2 Officers are reviewing the potential to use other S106 monies to contribute to the changing rooms and are also reviewing cost control measures on the project to maintain the project within grant allocations. As with all programmes of construction currently the available grant is fixed whilst costs may raise yet the Council is committed to the delivery of other aspirations within the Knutton Village Masterplan and will work within existing grant funding to best deliver on these aspirations.
- 8.3 The Council has sought the services of suitably qualified and competent build contractors for the football changing rooms via the MyTenders Portal. 2 responses were received, and the details are included in the confidential report.
- 8.4 Officers from the Council's Regeneration Team are already engaged with the project through the Newcastle Town Deal programme. This includes close working with Newcastle Town Football Club and support officers from the Football Foundation to secure Football Foundation Funding. Officers will continue to

engage with monitoring the project to enable progress reports to be made to both the Football Foundation and DLUHC for Town Deal funding.

8.5 The Council's Property Team has drafted Heads of Terms for Newcastle Town Football Club to take on a lease of the Football Changing Rooms once the building is complete. This will extend the existing management arrangements for the playing pitches at the Wammy. The Property Team will manage this lease going forward.

## 9. **Major Risks & Mitigation**

9.1 By competitively procuring through a recognised portal the Council seeks to minimise some of the risks associated with the procurement.

9.2 Construction inflation remains a risk to the viability of the project until a contract price is agreed.

9.3 Until construction starts there is always a risk that unforeseen ground conditions cause a delay or cost increase to the project. Surveys have taken place to mitigate this risk and the design of the building has taken account of one issue relating to the location of a drain on the site.

9.4 Development needs to take place within the Town Deal delivery timescale by March 2026 otherwise this element of funding will be lost.

## 10 **UN Sustainable Development Goals (UNSDG)**

10.1 This project aligns principally with UNSDG:-

- 3 good health and wellbeing – by providing opportunities for active recreation and leisure alongside the mental health benefits of exercise and team-based sports.
- 5 gender equality – by providing progression pathway opportunities for girl's football.
- 10 reduced inequalities - by uplifting facilities with an area of multiple deprivation.
- Sustainable cities and communities - by providing leisure opportunities in a highly accessible location.

3 GOOD HEALTH  
AND WELL-BEING



5 GENDER  
EQUALITY



10 REDUCED  
INEQUALITIES



## 11 **Key Decision Information**

11.1 This requires expenditure of £200,000 Council capital budget allocation plus expenditure of S106 and Newcastle Town Deal funds.

11.2 The project is located in Cross Heath Ward but it is intended to serve residents from a wider area of the Borough.

## 12 **Earlier Cabinet/Committee Resolutions**

- 12.1 July 2023 Construction of the Football Changing Facility at the Wammy
- 12.2 October 2022 Newcastle Town Deal.
- 12.3 June 2021 Knutton masterplan report on public consultation and suggested amendments to the draft Knutton Masterplan.
- 12.4 January 2021 Draft Newcastle own Deal Investment Plan
- 12.5 November 2020 Knutton Masterplan Report
- 12.6 December 2019 Development of Town Deal Investment Plans
- 12.7 November 2018 One Public Estate – Knutton Masterplanning Project
- 12.8 September 2015 Wammy Neighbourhood Park Phase 3

## 13 **List of Appendices**

- 13.1 None.

## 14 **Background Papers**

- 14.1 Planning committee papers 20 June 2023  
<http://svmma/mgChooseDocPack.aspx?ID=3886>
- 14.2 Planning Application 23/00142/DEEM3 <https://publicaccess.newcastle-staffs.gov.uk/online-applications/shortUrlResults.do?action=firstPageShort&searchType=Application&caseAddressType=Application&searchCriteria.reference=23%2F00142%2FDEEM3&state=Dv5VTOVBfr83K%2FofUcu3Pg%3D%3D>
- 14.3 Knutton Village Masterplan
- 14.4 Newcastle Town Investment Plan



**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**CORPORATE LEADERSHIP TEAM'S  
REPORT TO CABINET**

**19<sup>th</sup> March 2024**

**Report Title:** Sport England Swimming Pool Support Grant to Kidsgrove CIO

**Submitted by:** Service Director - Commercial Services

**Portfolios:** One Council, People & Partnerships

**Ward(s) affected:** Kidsgrove and Ravenscliffe

<b><u>Purpose of the Report</u></b>	<b><u>Key Decision</u></b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
To outline the award of grant funding for Kidsgrove Sports Centre from the Sport England Swimming Pool Fund.			
<b><u>Recommendation</u></b>			
That Cabinet:			
<ol style="list-style-type: none"> <li>1. Notes the Sport England capital grant from the Swimming Pool Fund is in principle accepted by the Council to support the eligible projects at Kidsgrove Sports Centre.</li> <li>2. Authorises the Duty Chief Executive in consultation with the Portfolio Holder for One Council, People &amp; Partnerships is authorised to sign all necessary agreements to enable the grant to be passported to Kidsgrove Sports Centre.</li> </ol>			
<b><u>Reasons</u></b>			
Due to the level of capital funding allocated to Kidsgrove Sports Centre it is appropriate that Cabinet makes the decision to progress understanding the process and risks.			

**1. Background**

1.1 In 2023 Sport England launched the Swimming Pool Support Fund and enabled local authorities to place bids for eligible swimming pools within their area. To be eligible the pool needed to have public access and support community swimming. Bids could be made for capital projects which support improvements to reduce future utility costs, thus making swimming pools more financially viable for the future.

1.2 Two bids were included for Newcastle the first was for pool covers at J2 and the second was for solar panels and Combined Heat and Power (CHP) unit for Kidsgrove Sports Centre. In January 2024 Sport England notified the Council that funding was being allocated to Kidsgrove Sports Centre

## 2. Issues

- 2.1 The funding agreement from Sport England places the responsibility on the Council to ensure that the capital schemes are deliverable, that monitoring of pool use is provided through Sport England's Moving Communities platform and any clawback is made if required.
- 2.2 Kidsgrove CIO has 2 capital elements supported, the Solar Panels and CHP unit, Kidsgrove CIO will need to procure the works and ensure satisfactory installation and maintenance. Under the lease the Council will be required to give landlord consent to the changes to the building structure.
- 2.3 Kidsgrove Sports Centre CIO need to sign up to the Moving Communities platform which monitors participation numbers, customer satisfaction, and the financial performance of the centre.
- 2.4 There are clauses in the agreement that should the pool not continue to deliver community access then the funding can be clawed back by Sport England within a ten-year period. There are a range of risks associated with this and Kidsgrove Sports Centre CIO will need to ensure they continue to operate within the agreed parameters. Should they wish to alter their operational plans then discussions will be required with Sport England to satisfy them that any changes are acceptable.

## 3. Recommendation

That Cabinet:

- 3.1 Notes the Sport England capital grant from the Swimming Pool Fund is in principle accepted by the Council to support the eligible projects at Kidsgrove Sports Centre.
- 3.2 Authorises the Deputy Chief Executive in consultation with the Portfolio Holder for One Council, People & Partnerships to sign all necessary agreements to enable the grant to be passported to Kidsgrove Sports Centre.

## 4. Reasons

- 4.1 The grant funding is significant and will make a clear contribution to the operation of the Kidsgrove Sports Centre. Investment in the Solar Panels and CHP unit will drive energy savings which will reduce the operational costs of the centre.

## 5. Options Considered

- 5.1 The Council has a choice whether to support Kidsgrove CIO to access the grant.

## 6. Legal and Statutory Implications

- 6.1 Sport England require Kidsgrove Sports Centre CIO as they hold the leasehold to enter into a separate Grant Adherence Agreement committing them to comply with the funding agreement. This agreement will be between three parties; Sport England, the Local Authority and the Kidsgrove Sports Centre. A draft of this agreement is available on request. It is critical however to note that the Council remains the applicant for the funding and will therefore remain responsible to Sport England for compliance with the terms of the funding agreement for the Kidsgrove Sports Centre. In line with the Sport England guidance the Council will consider a separate agreement with Kidsgrove to ensure that the responsibilities placed on the Council to deliver the scheme are passed to Kidsgrove Sports Centre CIO.

## **7. Equality Impact Assessment**

- 7.1 The plans are not intended to have any direct impact on equality, however by increasing the viability of the scheme then the facilities are more likely to remain open to all members of the community.

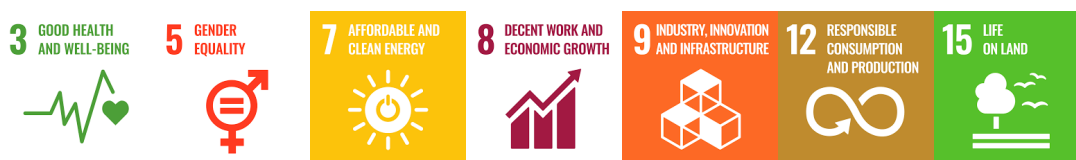
## **8. Financial and Resource Implications**

- 8.1 The grant allocation is £235,375 (£155,125 for the installation of Solar Panels and £80,250 for the installation of a CHP unit), funding can be shared across the two projects but can not be spent on other projects. Should the costs of installation be greater than the grant Kidsgrove CIO will be responsible for financing. At the time of writing this report Kidsgrove CIO were obtaining quotations for the installation and establishing other associated costs.
- 8.2 Kidsgrove Sports Centre CIO will be required to procure the two projects, oversee the project management of them, and pay any initial invoices for works undertaken. Upon receipt of validated invoices, the Council will then recover money from Sport England and the transfer this to back to the CIO.
- 8.3 Sport England reserves the right to withhold up to 10% of the Capital Grant until the following conditions are met:
- Completion of data returns on Sport England's Moving Communities platform undertaken by Kidsgrove Sports Centre CIO;
  - The Council ensures that Kidsgrove CIO has completed the Quest Environmental Management Awareness Audit / Review;
  - The Council ensures that Kidsgrove CIO has completed the Quest Environmental Management Awareness Training course.
  - The Council submits a copy of the local strategic plan for physical activity to Sport England.
- 8.3 The Council can make single or multiple claims from Sport England for the grant based on third party invoices showing eligible expenditure. The latest date for a claim is 28<sup>th</sup> February 2025 so that drawn down can be completed by 31<sup>st</sup> March 2025.

## **9. Major Risks & Mitigation**

- 9.1 Due to the timing of the funding round applicants had limited time to develop fully costed bids therefore the grant applications were based upon quotations. There is a risk that when the procurement is undertaken that the costs are greater than anticipated, should costs increase it is intended that Kidsgrove Sports Centre CIO will be required to find any shortfall. Equally technical surveyors may be required to confirm the installation methodology.
- 9.2 Kidsgrove CIO will need to decide on their procurement approach and the management of the contractors to ensure that the installation is effectively managed. It is proposed that the installation companies act as principal designer for their respective projects.
- 9.3 Should Kidsgrove CIO not comply with the funding agreement there are clawback conditions.
- 9.4 Structural surveys will be required to ascertain where solar panels can be installed on the roof, should any area not meet the required weight bearing load then these areas will be omitted from the installation.
- 9.5 In relation to planning, while the solar panels are likely to comprise permitted development, the CHP unit will require planning permission which is likely to be acceptable in principle.
- 9.6 Kidsgrove CIO will share the plans with Wilmot Dixon to ensure that any works undertaken will not infringe on any building warranties that are currently in place following the major refurbishment.

## 10. UN Sustainable Development Goals (UNSDG)



## 11. Key Decision Information

- 11.1 This is a key decision based on the grant allocation.

## 12. Earlier Cabinet/Committee Resolutions

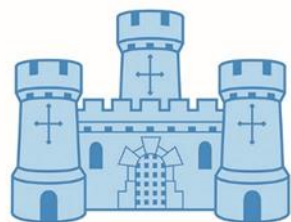
- 12.1 None.

## 13. List of Appendices

- 13.1 None.

## 14. Background Papers

- 14.1 Sport England Swimming Pool Support Fund Capital Grant Agreement and Grant Adherence is available on request.



**NEWCASTLE·UNDER·LYME**  
**BOROUGH COUNCIL**

## **Cabinet Forward Plan: Newcastle under Lyme Borough Council**

### **Notice of Key Decisions to be taken under the Local Authorities (Executive Arrangements) (Meetings & Access to Information) (England) Regulations 2012 between 1 March 2024 and 30 June 2024**

This plan gives notice of decisions that [Cabinet](#) is expecting to take over the next few months. It also gives, except in cases of urgency, at least 28 days notice of all “Key Decisions” that will be taken “Key Decisions” are decisions about “executive” functions that will:-

- A) result in the Council incurring expenditure or making savings of an amount which is significant having regard to the Council’s budget for the service or the function to which the decision relates. (NB: The financial threshold above which expenditure or savings become significant has been set by the Council at £100,000 Revenue and £250,000 Capital Expenditure); and/or
- B) be significant in terms of its effects on communities living or working in an area comprising two or more wards of the Borough.

We have to take some Cabinet decisions in private because they deal with confidential or “exempt” information. That is information described in one or more of the following categories set out in Schedule 12A of the Local Government Act 1972.

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals an authority proposes;

- a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b. to make an order or direction under any enactment
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime

If we intend to take a decision in private, we will tell you why in the plan below. If you disagree with our reasons, you can tell us why using the contact details below. We will respond to you directly and will publish our response in the meeting agenda. If we have published the meeting agenda before we can respond, we will respond verbally at the meeting and record the response in the minutes.

You can find more information about Cabinet, Cabinet Members and their portfolios, agendas, reports and minutes [here](#).

More information on Cabinet procedures, executive functions, Key Decisions, urgent decisions and access to information is available in our [Constitution](#).

For all enquiries, please contact Democratic Services, Castle House, Barracks Road, Newcastle-under-Lyme, Staffordshire ST5 1BL.  
Telephone – 01782 742222 / Email – [DemocraticServices@newcastle-staffs.gov.uk](mailto:DemocraticServices@newcastle-staffs.gov.uk)

Report Title	Description	Portfolio	Intended Decision Taker and Date	Overview & Scrutiny Committee	Wards Affected	Reason for Determining in Private Session (if Applicable)	Key Decision
Re-award of contract for Wammy Changing Rooms	To consider a report on the re-awarding of contract for Wammy Changing Rooms	Cabinet Portfolio Holder - Finance, Town Centres and Growth	Cabinet 19 March 2024	Economy and Place	Cross Heath	3 Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Yes
Newcastle Town Deal Digital	To consider a report on the Newcastle Town Deal Digital	Cabinet Portfolio Holder - Finance, Town Centres and	Cabinet 19 March 2024	Economy and Place	Town	N/A	Yes

Report Title	Description	Portfolio	Intended Decision Taker and Date	Overview & Scrutiny Committee	Wards Affected	Reason for Determining in Private Session (if Applicable)	
Infrastructure Project Update	Infrastructure Project Update	Growth					
Tree and Biodiversity Management Plan	To consider a report on the Tree and Biodiversity Management Plan	Cabinet Portfolio Holder - Sustainable Environment	Cabinet 19 March 2024	Health, Wellbeing and Environment	All Wards	N/A	No
Sport England Swimming Pool Support Grant for Kidsgrove Sports Centre	To consider a report on a Sport England Swimming Pool Support Grant for Kidsgrove Sports Centre	Cabinet Portfolio Holder - Leisure, Culture & Heritage	Cabinet 19 March 2024	Health, Wellbeing and Environment	All Wards	N/A	Yes
EV Charging Points for Castle Car Park	To consider a report on EV Charging Points for Castle Car Park	Cabinet Portfolio Holder - Finance, Town Centres and Growth	Cabinet 19 March 2024	Economy and Place	Town	3 Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Yes
Walleys Quarry Odour Update	To consider a report on odour issues at Walleys Quarry	Cabinet Portfolio Holder - One Council, People and Partnerships	Cabinet 19 March 2024	Health, Wellbeing and Environment	All Wards	N/A	No
Refreshed	To consider a report	Cabinet Portfolio	Cabinet 23	Health, Wellbeing	All Wards	N/A	Yes

Report Title	Description	Portfolio	Intended Decision Taker and Date	Overview & Scrutiny Committee	Wards Affected	Reason for Determining in Private Session (if Applicable)	
Sustainable Environment Strategy and Action Plan	on the Refreshed Sustainable Environment Strategy and Action Plan	Holder - Sustainable Environment	April 2024	and Environment			
Walleys Quarry Odour Update	To consider a report on odour issues at Walleys Quarry	Cabinet Portfolio Holder - One Council, People and Partnerships	Cabinet 23 April 2024	Health, Wellbeing and Environment	All Wards	N/A	No
Staffordshire Leaders Board -Terms of Reference	To consider a report on the amended Terms of Reference for the Staffordshire Leaders Board	Cabinet Portfolio Holder - One Council, People and Partnerships	Cabinet 23 April 2024	Finance, Assets and Performance	All Wards	N/A	Yes
Irrecoverable Items 2023/2024	To consider a report on Irrecoverable Items 2023/24	Cabinet Portfolio Holder - Finance, Town Centres and Growth	Cabinet 23 April 2024	Finance, Assets and Performance	All Wards	3 Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Yes
Walleys Quarry Odour Update	To receive an update on odour issues at Walleys Quarry	Cabinet Portfolio Holder - One Council, People and Partnerships	Cabinet 4 June 2024	Health, Wellbeing and Environment	All Wards	N/A	No



Report Title	Description	Portfolio	Intended Decision Taker and Date	Overview & Scrutiny Committee	Wards Affected	Reason for Determining in Private Session (if Applicable)	
Kidsgrove Town Deal Contract Award - Shared Services and Garage Replacement	To consider a report on the Kidsgrove Town Deal Contract Award - Shared Services and Garage Replacement	Cabinet Portfolio Holder - Finance, Town Centres and Growth, Cabinet Portfolio Holder - One Council, People and Partnerships	Cabinet 4 June 2024	Economy and Place	Kidsgrove & Ravenscliffe	3 Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Yes
Award of Contract for Castle Car Park Payment System	To consider a report on the awarding of a contract for the Castle Car Park Payment system	Cabinet Portfolio Holder - One Council, People and Partnerships	Cabinet 4 June 2024	Economy and Place	Town	N/A	Yes
Taxi Metered Fares	To consider a report on Taxi Metered Fares	Cabinet Portfolio Holder - Finance, Town Centres and Growth	Cabinet 4 June 2024	Finance, Assets and Performance	All Wards	N/A	Yes

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

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