

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO ECONOMY, ENVIRONMENT AND PLACE SCRUTINY COMMITTEE**

17 December 2019

Report Title: Walley's Quarry Landfill

Submitted by: Darren Walters – Environmental Health Business Manager

Portfolios: Environment and Recycling

Ward(s) affected: Keele, Knutton, Silverdale, Thistleberry, Town and Westlands.

Purpose of the Report

To provide members with details regarding Walley's Quarry Landfill Site and information on the current issues giving the local community cause for concern regarding the operations and impacts of the site.

To consider the request made by Council on 20th November 2019 in respect of concerns raised by Members.

Recommendation

1. That Scrutiny receives the report and agrees to undertake a detailed examination of the concerns raised and receive input from relevant stakeholders.

Reasons

In accordance with the Council's Constitution (adopted February 2019) The Economy, Environment and Place Scrutiny Committee is able to consider any matter within its remit affecting the Borough or its community.

1. **Background**

- 1.1. At Full Council on the 20th November 2019, questions were tabled regarding the Borough Council's role and that of other regulators in relation to the investigation and resolution of odour complaints made about the landfill operations at Walley's Quarry Landfill Site on Cemetery Road Silverdale and the impacts on the health of residents living and working in the surrounding community from hydrogen sulphide emissions.
- 1.2. Members received a comprehensive response to the questions tabled. These are detailed in Appendix 1.
- 1.3. During the discussion that took place the Leader of the Council made a request that this matter be referred to the Economy, Environment and Place Scrutiny Committee for further consideration.
- 1.4. This Committee is able to undertake an examination of the issues giving cause for concern, including requesting the attendance of key stakeholders involved in the operation and regulation of the landfill activities, and to produce a report detailing its findings and recommendations for further action.

2. **Issues**

- 2.1. Walley's Quarry Landfill is located off Cemetery Road Silverdale and borders three electoral wards, Thistleberry, Silverdale and Knutton. The landfill is located on the site of a former clay extraction quarry. The location of the landfill site is shown in the plan in Appendix 2.
- 2.2. The current landfilling operations are giving rise to significant cause for concern about impacts on health, wellbeing and the environment in the surrounding communities. These concerns cover the following matters:
- Nuisance from gull activity and number of gulls;
 - Odours impacting the community in their homes, workplaces and outdoor environment;
 - Highway safety concerns relating to waste vehicles accessing the site;
 - Material falling from waste vehicles and
 - Concerns about the impact of emissions to land, air and water.
- 2.3. The current operator of the landfill is Red Industries RM Ltd (RED), who is legally responsible for complying with the terms of the Environmental Permit issued by the Environment Agency. Site activities are also regulated through planning permissions issued by Staffordshire County Council (SCC) as the Waste Planning Authority (WPA).
- 2.4. The landfill is currently permitted by the EA to receive 250,000 tonnes of waste per annum. The EA has temporarily allowed an increase in waste inputs up to 400,000 tonnes per annum pending a decision on a variation application made by RED to the EA in 2019 to permanently increase the waste inputs to 400,000 tonnes per annum.
- 2.5. The landfill has been in operation since 2007 and has planning permission for the tipping of non-hazardous waste until 2026, followed by the tipping of inert materials up until 2042. The site is required through the planning permission be fully restored by 2042 in accordance with details previously approved by SCC.
- 2.6. Post closure, the site will continue to be the legal responsibility of RED, with ongoing duties under the environmental permit until such time as the EA formally accept surrender of the environmental permit.
- 2.7. The roles and responsibilities of various parties concerned with the landfill are detailed as follows:

2.7.1. Red Industries RM Ltd (RED)

- 2.7.1.1. RED are the current landfill operators and holders of Environmental Permits (issued by the EA) which allows:-
- the operation of a Non-Hazardous waste landfill with a separate cell for Stable Non-Reactive Hazardous Waste (gypsum and asbestos). The permit also allows the operation of:
 - a leachate treatment plant for management of leachate arising from the landfill
 - landfill gas engine and flare for treatment and utilisation of landfill gas from the landfill
 - the treatment of waste to produce soil, soil substitutes and aggregates.

Monitoring is required for landfill gas, leachate, surface water and groundwater at a number of points at the facility at different frequencies (weekly, monthly, quarterly and annually).

- 2.7.1.2. RED are legally responsible for compliance with the Environmental Permit conditions along with compliance with the planning permission for the site.

2.7.1.3. A copy of the current Environmental Permit is available to view at <https://www.redindustries.co.uk/walleys-landfill-community/>

2.7.2. Planning Permission (Staffordshire County Council)

2.7.2.1. Staffordshire County Council are the Waste Planning Authority for the landfill. Landfilling at Walley's Quarry commenced in January 2007 in accordance with a planning permission which provides for the tipping of non-hazardous wastes until 2026 followed by tipping of inert waste materials up until 2042 and also the final secures the restoration of the site in accordance with approved details.

2.7.2.2. On 9 September 1992 an Interim Development Order (IDO) permission at Walley's Quarry was formally registered with the County Council and approval was sought for a Scheme of Conditions to be attached to that permission (ref. IDO/N/1).

2.7.2.3. The Scheme of Conditions was reported to the County Council's Planning Committee where it was resolved to amend several conditions and an amended IDO Scheme of Conditions was issued on 17 June 1994. This decision was appealed and a decision was received from the Secretary of State for the Department of Environment, Transport and Regions on 14 November 1997 this sets out the conditions relating to the planning permission for the winning and working of minerals and the depositing of waste. This permission contains conditions which cover the following matters, hours of operation, number of total HGV movements to and from the site across a working week, restoration and aftercare of the site, wheel washing, noise, mud and dust control and the period during which landfilling must cease.

2.7.2.4. Planning permission was granted in 13 March 2009 for the construction of a landfill gas utilisation compound to control and convert gas into electricity (ref. N.09/01/216 MW).

2.7.2.5. A review (ref. N.12/09/216 MW) of the IDO permission in accordance with the Environment Act 1995 was submitted in July 2013. The review was determined by the SCC in 2014 and a number of planning conditions were updated.

2.7.2.6. Monitoring of compliance with planning conditions is the responsibility of SCC.

2.7.2.7. Details of the planning history for the landfill can be found on SCC Planning Portal

2.7.3. Environmental Permit (Environment Agency)

2.7.3.1. The Environment Agency issued an Environmental Permit for Walley's Quarry's Landfill site on the 9 June 2005, to Lafarge Aggregates Limited.

2.7.3.2. The permit was transferred to RED on the 3 November 2016.

2.7.3.3. The permit allows the operation of a Non-Hazardous waste landfill with a separate cell for Stable Non-Reactive Hazardous Waste (gypsum and asbestos). The operator has never used a separate cell and therefore (SNRHW) is not accepted.

2.7.3.4. The total quantity of waste allowed to be accepted at the facility is 250,000 tonnes per year. Non-Hazardous waste includes municipal and industrial wastes.

2.7.3.5. The permit also allows the operation of:

- a leachate treatment plant for management of leachate arising from the landfill
- landfill gas engine and flare for treatment and utilisation of landfill gas from the landfill

- 2.7.3.6. Monitoring is required for landfill gas, leachate, surface water and groundwater at a number of points at the facility at different frequencies (weekly, monthly, quarterly and annual)
- 2.7.3.7. Landfill sites are required to hold an Environmental Permit, with the conditions of the permit and its regulation meeting with the requirements of The Landfill Directive (EU Directive 1993/31/EC).
- 2.7.3.8. The Landfill Directive is enacted into English law under The Environmental Permitting (England and Wales) Regulations 2016, and subsequent amendments. These regulations also provide the mechanism to regulate permitted activities, including landfills.
- 2.7.3.9. The objective of the Directive and resulting permit conditions is to prevent or reduce as far as possible negative effects on the environment, in particular on surface water, groundwater, soil, air, and on human health from the landfilling of waste by introducing stringent technical requirements for waste and landfills. For these purposes, the landfill operator is required to operate their site by employing Best Available Techniques (BAT).
- 2.7.3.10. The Landfill Directive defines the different categories of waste (municipal waste, hazardous waste, non-hazardous waste and inert waste) and applies to all landfills, defined as waste disposal sites for the deposit of waste onto or into land. Landfills are divided into three classes:
- landfills for hazardous waste;
 - landfills for non-hazardous waste;
 - landfills for inert waste.
- 2.7.3.11. A standard procedure for the acceptance of waste in a landfill is laid down so as to avoid any risks, including:
- waste must be treated before being landfilled;
 - hazardous waste within the meaning of the Directive must be assigned to a hazardous waste landfill;
 - landfills for non-hazardous waste must be used for municipal waste and for other non-hazardous waste;
 - landfill sites for inert waste must be used only for inert waste;
 - criteria for the acceptance of waste at each landfill class must be adopted by the Commission in accordance with the general principles of Annex II.
- 2.7.3.12. The following wastes may not be accepted in a landfill:
- liquid waste;
 - flammable waste;
 - explosive or oxidising waste;
 - hospital and other clinical waste which is infectious;
 - used tyres, with certain exceptions;
 - any other type of waste which does not meet the acceptance criteria laid down in Annex II of the Landfill Directive.
- 2.7.3.13. The Directive sets up a system of operating permits for landfill sites. Applications for permits must contain the following information:
- the identity of the applicant and, in some cases, of the operator;
 - a description of the types and total quantity of waste to be deposited;
 - the capacity of the disposal site;
 - a description of the site;
 - the proposed methods for pollution prevention and abatement;
 - the proposed operation, monitoring and control plan;
 - the plan for closure and aftercare procedures;
 - the applicant's financial security;

- an impact assessment study, where required under Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment.

- 2.7.3.14. Member States must ensure that existing landfill sites may not continue to operate unless they comply with the provisions of the Directive.
- 2.7.3.15. The current landfill permit, application documentation, information required from the operator to comply with permit conditions, inspections, investigations and monitoring undertaken by the EA are all a matter of public record. This information can be found on the Environment Agency Public Register which it is required by law to keep.
- 2.7.3.16. Compliance with the Environmental Permit is assessed by trained and experienced officers of the Environment Agency, and follows various technical protocols and procedures. Inspections and reports follow EA published policy and result in the production of Compliance Assessment Report (CAR) form. A copy of the form is left provided to the permit holder, with a copy also appearing on the EA's public register. Guidance on inspections and the production of CAR forms can be found at <https://www.gov.uk/government/publications/assessing-and-scoring-environmental-permit-compliance/assessing-and-scoring-environmental-permit-compliance>
- 2.7.3.17. The Environment Agency undertook an assessment of emissions from the landfill in 2018. This report has been published and for the pollutants monitored has not identified any exceedances of health based standards. It did however identify hydrogen sulphide emissions from two sources, these being from the landfill and the Silverdale Road sewage pumping station. This report is available to view at <https://www.redindustries.co.uk/walleys-landfill-community/>
- 2.7.3.18. A further more in depth study was undertaken by the EA in 2019. The results of this study are anticipated to be published by the end of 2019. In the interim, the EA have advised that the range of pollutants monitored in 2019 has not identified any exceedances of relevant World Health Organisation standards.

2.7.4. Newcastle under Lyme Borough Council - Environmental Health & Planning

Planning:

- 2.7.4.1. The Borough Council is the local planning authority with responsibility for planning matters in the area surrounding the site. It has no planning responsibility for current activities on the site as these fall within the remit of SCC as the Minerals and Waste Planning Authority.
- 2.7.4.2. In recognition of the environmental impacts of landfills and proximity to the surrounding residential areas, the Borough Council has sought to resist the use of the former quarry for landfilling both through the 1992 IDO application to the County Council and the subsequent appeal to the Secretary of State.
- 2.7.4.3. The Council in its capacity as the local planning authority also sought to resist residential development in close proximity to the site by refusing planning permission for residential development on the Hamptons Field site at Keele Road, citing grounds for refusal to include adverse impact on residential amenity caused by pollution from odours. The refusal of planning permission was subsequently appealed to the Planning Inspectorate (PI). The Council put forward a robust argument, supported by expert evidence about the then impacts of landfill odours and likely future impacts on the development and surrounding communities. The PI however granted permission for residential development and in dismissing the argument about odour impacts, made reference to national planning policy which assumes that pollution control regimes operate effectively and that this would protect amenity. The Planning Inspectorate decisions effectively mean that the Council is no longer able to refuse permission for development due to impacts of the landfill.

- 2.7.4.4. The Planning Inspectorate's decision can be viewed at <https://acp.planninginspectorate.gov.uk/ViewCase.aspx?CaseID=3138033&CoID=0>

Environmental Health:

- 2.7.4.5. The Council's Environmental Health Division is investigating complaints about odour where it affects people in their home or workplace to determine if the odour can be actioned as a statutory nuisance for the purposes of Part III of the Environmental Protection Act 1990. (EPA 1990) The Council is under a legal duty to undertake a reasonable investigation into complaints about odour nuisance which has the potential to unreasonably interfere with the reasonable use and enjoyment of a person's premises.
- 2.7.4.6. In relation to the legal role of the Council, where there is evidence which shows that the odour is actionable as a "statutory nuisance" and this can be linked back to the activities of the landfill, the Council is legally required to serve a nuisance abatement notice on the landfill operator. The decision on whether a matter constitutes an actionable statutory nuisance or not, is delegated to Environmental Health Officers who are trained and experienced in the assessment of statutory nuisances and the law.
- 2.7.4.7. An abatement notice cannot require the cessation of landfilling activities or the closure of the site. As with any notice there is a right of appeal on a number of specified grounds. In the event of an appeal, it would be for a Magistrates' Court to determine if the appeal grounds are met with the court then being able to confirm cancel or vary the notice.
- 2.7.4.8. A breach of an abatement notice is a criminal offence, however as the site is permitted by the Environment Agency, any decision by the Council to prosecute for non-compliance would require the formal approval of the Secretary of State. This is because the criteria for complying with an abatement notice served by the Council upon a business and the Environmental Permit issued by the Environment Agency are essentially the same.
- 2.7.4.9. Anyone affected by the activities of the site can also take their own action under section 82 of the Environmental Protection Act 1990.

See the following for further information on the interaction between statutory nuisance and environmental permitting:: <https://www.gov.uk/government/publications/environmental-permitting-guidance-statutory-nuisance/interaction-between-environmental-permitting-and-local-authorities-statutory-nuisance-duties-web-version>.

- 2.7.4.10. Complaints about the landfill can be made to the Council either in person, via the phone or online <https://account.newcastle-staffs.gov.uk/xfp/form/151>. Complaints made during the working day are sent through to officer's mobile phones, and officers are attempting to witness complaints reported as happening now and which are affecting people in their home or workplace. Visits are being made in pairs to ensure officer safety.
- 2.7.4.11. The Environmental Health Division has also published a dedicated webpage which provides details on the role of the council and others and also gives factual information and details Frequently Asked Questions <https://www.newcastle-staffs.gov.uk/all-services/environment/environmental-health/walley%E2%80%99s-quarry-%E2%80%93-what-we-can-do>
- 2.7.4.12. In respect of the current permit variation, officers from the Environmental Health Division have authored consultation responses on behalf of the Council which have been formally submitted to the EA These acknowledge the current issues of community concern and provide reasoned arguments objecting to the current permit variation application. The consultation responses are public documents.

2.7.5. Public Health England

- 2.7.5.1. Officers from the Council's Environmental Health Division have been and remain in contact with Public Health England (PHE). PHE review data relating to GP consultations and call's to NHS 111 to identify issues of local concern which require further investigation. PHE scientists also provide advice to government and regulators based on scientific research and understanding. PHE have provided the following comments to officers concerning the landfill site and current issues of community concern.
- 2.7.5.2. *PHE has not been presented with any environmental data relating to pollutant levels post February 2018, neither has PHE received any analysis regarding site-related odour complaints related to either local meteorological conditions or on-site practices. With respect to gull activity associated with the site, we would not anticipate that this should pose an issue on a well-run and maintained site, and should be controlled by adherence to environmental permit conditions.*
- 2.7.5.3. *PHE have assessed the environmental data provided by the EA (July 2017-February 2018) and note that these levels are low and would not expect there to be any long-term health consequences. However, odour can be a cause of stress and anxiety, even when the substances causing the odours are not harmful to health at the levels detected at these locations.*
- 2.7.5.4. *If residents have health concerns they are advised to contact their local GP, who (in turn) can seek advice from PHE.*
- 2.7.5.5. *From analysis of syndromic surveillance data for the period up to February 2018, PHE has no evidence at this stage of an increase in GP consultations or calls to NHS 111 by the neighbouring population for symptoms of breathing difficulties or eye problems. We are in the process of obtaining an update for the subsequent period.*
- 2.7.5.6. *PHE does not normally comment on individual research studies, instead reaching a view based on the weight of new and existing evidence. With respect to landfills, PHE's position is that living close to a well-managed landfill site does not pose a significant risk to human health. PHE is continuing to review the evidence base and this work is ongoing.*

2.7.6. Walley's Quarry Landfill Liaison Committee

- 2.7.6.1. It is a requirement of the county council issued planning permission, through a section 106 obligation, that the landfill operator sets up and operates a landfill liaison committee.
- 2.7.6.2. This committee has been in operation since the landfilling operations commenced in 2007. It operates in accordance with agreed Terms of Reference. The liaison committee is a forum for the local committee representatives to raise issues relating to the landfill operation but has no formal powers to act. This committee meets quarterly. Its membership consists of representative's from the following organisations:
1. Red Industries RM LTD (Current landfill operator and Environmental Permit holder)
 2. Environment Agency (National regulator for landfills)
 3. Staffordshire County Council (Waste Planning Authority and regulator for planning permission conditions)
 4. Newcastle under Lyme Borough Council officers (Environmental Health and Planning)
 5. Thistleberry Residents Association
 6. A residents representative from the local community
 7. A representative from Silverdale Parish Council
 8. Two County councillors (one of which also chairs the liaison committee)
 9. A councillor from the Thistleberry ward
 10. A councillor from the Silverdale ward
 11. A councillor from the Knutton ward

2.7.6.3. The liaison committee meeting minutes are available to view at <https://www.redindustries.co.uk/walleys-landfill-community/>

3. **Proposal**

3.1. That committee gives consideration to the information received and decides what further action it wishes to take in relation to the local community concerns arising from this site.

3.2. Scrutiny may wish to receive evidence from a number of Agencies and organisations such as:

- Red Industries;
- Environment Agency,
- Staffordshire County Council (Minerals and Waste Planning);
- Staffordshire County Council Highways;
- Staffordshire Police;
- Public Health England;
- Newcastle-under-Lyme Borough Council's Environmental Health and Planning Departments;
- Thistleberry Residents Association;
- Silverdale Parish Council;
- Stop the Stink Campaign;
- Newcastle under Lyme BID
- A representative on behalf of the businesses located along Cemetery Road, Silverdale

4. **Reasons for Proposed Solution**

4.1. There is significant community concern about the impact on health, wellbeing and environment caused by the landfilling operations and related activities.

4.2. The scrutiny process provides a structured publicly accessible forum to formally acknowledge the issues of community concern, to hear factual information about the role and responsibilities of the landfill operator; the role and responsibilities of respective agencies and regulators; impact on the communities surrounding the site, current research and understanding of landfill impacts on health, wellbeing and the environment and where appropriate to do so to make recommendations for further consideration.

5. **Options Considered**

5.1. The 20th November 2019 Council resolved that this matter be referred to the Economy, Environment and Place Scrutiny Committee.

5.2. There are a number of options available for scrutiny to consider this matter. Council has outlined a preferred approach as detailed in 1.3.

6. **Legal and Statutory Implications**

6.1. The role and remit of scrutiny committee's is governed by the [Borough Council's Constitution](#).

6.2. The legal responsibility for the operation of the landfill site lies with the operator, Red Industries RM Ltd.

7. **Equality Impact Assessment**

7.1. Not applicable

8. **Financial and Resource Implications**

8.1. There is officer time involved in the investigation of complaints falling within the Councils remit and supporting the scrutiny process. This will be met from within existing resources. However, depending upon decisions made by committee this may require additional technical or specialist external support for which there is no budget identified.

8.2. In terms of other Agencies, there will be impacts on officer time and resource.

9. **Major Risks**

9.1. Participation in the scrutiny process cannot be compelled. Without appropriate involvement of relevant parties, there is a risk of the scrutiny process not meeting its objectives.

9.2. Reports and recommendations of a scrutiny committee are not legally binding on any affected party. The process does however provide an opportunity for examination of the issues of concern and understanding of the roles and responsibilities of various parties. This also provides an opportunity for public involvement.

10. **Sustainability and Climate Change Implications**

10.1. Not applicable

11. **Key Decision Information**

11.1. Not applicable.

12. **Earlier Cabinet/Committee Resolutions**

12.1. The 20th November 2019 Council resolved that this matter be referred to the Economy, Environment and Place Scrutiny Committee.

13. **List of Appendices**

Appendix 1 – Questions put to Council 20th November 2019 and answers given
Appendix 2 – Location map of Walley's Quarry Landfill Site

14. **Background Papers**

Not applicable

**Appendix 1 –
Questions put to Full Council 20th November 2019 and answers given**

1. Councillor Fear asked for an update into the investigation into foul odours believed to be coming from Walley's Quarry.

The Portfolio Holder for Environment and Recycling, Councillor Trevor Johnson advised that the site was regulated by the Environment Agency. The Council had launched its own investigation into this which had shown a clear linkage of the site with the odour.

Over the past six weeks, complaints had risen and the complainants were being asked to keep records in order to build up a picture.

Officers of the Council were liaising with the Environment Agency and a meeting had taken place with RED Industries.

The Leader had written to the Secretary of State and had sought the support of the sitting MP. The Council's Chief Executive had recently written to the Environment Agency to ensure that the issue remained high on the agenda.

The Leader referred to odours from Walley's Quarry and stated that he would like to see the relevant Scrutiny Committee looking into this in more detail.

2. Councillor Jones asked the Portfolio Holder for Environment and Recycling if the landfill site at Wally's Quarry was producing hydrogen sulphite and if so, the quantities and finally a guarantee that this was not harmful to residents living near to the site.

Councillor Trevor Johnson advised the Environment Agency was undertaking air monitoring. The Environment Agency had, in 2017 carried out a study and concluded that the concentrations met the objectives. Another study was carried out earlier this year and those results were awaited. Members would be provided with the details once they were available.

Councillor Jones asked Councillor Trevor Johnson if he supported the concerns over health and the further investigation by Public Health England.

Councillor Johnson advised that he did support this and advised that the results of the Environment Agency investigation were expected by the end of the year.

Appendix 2 –
Location map of Walley's Quarry Landfill Site

