



SCRUTINY REVIEW WORKING PARTY - WALLEY'S QUARRY 25TH NOVEMBER 2020

**Presentation by Environmental Health –
Newcastle under Lyme Borough Council**

- Darren Walters (Environmental Protection Team Manager)
 - Nesta Barker (Head of Environmental Health)
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- 1. Environmental Health Role**
 - 2. Environmental Protection Act 1990**
 - 3. How we investigate complaints**
 - 4. Complaints data**
 - 5. Air Quality Standards**
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1. Environmental Health Role

- **Consultee to the county council as waste planning authority on planning matters relating to the landfill**
 - **Consultee to the Environment Agency on environmental permit applications**
 - **Consultee to the NULBC on planning matters surrounding the landfill**
 - **Liaison with Public Health England on health matters**
 - **Member of Walley's Landfill liaison committee**
 - **Liaison with key stakeholders**
 - **Investigation and resolution of statutory nuisances**
 - **Local Air Quality Management**
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1. Environmental Health Role

- **Consultee to the county council as waste planning authority on planning matters relating to the landfill.**
 - 1996 Initial planning application to use quarry as a landfill – Objection on adverse impact on community (Permission granted on appeal by Secretary of State)
 - 2013 ROMP application. Requested a number of updated planning conditions in recognition of Persimmons development on boundary
 - **Consultee to the Environment Agency on environmental permit applications**
 - Initial permit application – Objection on community impact grounds
 - 2019 permit variation application to increase waste tonnage to 400k tonnes p.a.– Documents reviewed and objection on a number of technical grounds including odour impact prompted updated info
 - 2020 permit decision consultation – Objection on odour grounds – sought assurance that there would be no worsening of existing situation for surrounding community
 - **Consultee to the NULBC on planning matters surrounding the landfill**
 - Persimmons Estate – Keele Road
 - Hamptons Field Keele Road – Objected on odour grounds (Subsequent refusal of planning permission by LPA overturned on appeal – odour adequately controlled via EA permit)
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1. Environmental Health Role

Liaison with Public Health England on health matters

“.....from analysis of health syndromic surveillance data for the period up to December 2019, PHE has no evidence of an increase in GP consultations or calls to NHS 111 by the neighbouring population for symptoms of breathing difficulties or eye problems, and similarly for GP in-hours consultations for asthma and wheeze. If residents have health concerns they are advised to consult their local GP. PHE continues to support the EA and local stakeholders with community engagement and will review any other potential health effects in light of further monitoring information supplied.”

*“The human nose is very sensitive to odours and often detects odorous chemicals at concentrations in air which pose no risk to health, however odours can be unpleasant and affect wellbeing. Many substances that are perceived as odorous are usually present at levels below which there is a direct toxicological effect. Odours can cause a nuisance to the population possibly leading to stress and anxiety. **Some people may experience symptoms such as nausea, headaches or dizziness as a reaction to odours even when the substances that cause those smells are themselves not harmful to health. The PHE position is that living close to a well-managed landfill site does not pose a significant risk to human health** (<https://www.gov.uk/government/publications/landfill-sites-impact-on-health-from-emissions>).”*

(Source email from PHE 14/02/2020)

1. Environmental Health Role

- **Member of Walley's Landfill Liaison Committee**

Have attended quarterly meetings since site opened - Minutes available at <https://www.redindustries.co.uk/walleys-landfill-community/>

- **Liaison with key stakeholders**

Discuss issues with EA, Staffs County Council, RED, Community Group, Residents and business's

- **Signposting and Notification**

Officers are out and about in the community. Where matters are identified which fall within the remit of others these will be reported to site and appropriate regulator e.g. Mud and debris on road, odours not affecting homes or business, gull's, dust, cover, litter.

2. Environmental Protection Act 1990, Part III

STATUTORY NUISANCE
Noise & Vibration
Dust
Light
Odour
Insects
Fumes & Gases

Impact upon the use and enjoyment of property (homes and workplaces) - NOT driving by the site/ public areas
MUST serve an Abatement Notice where a statutory nuisance is identified or considered likely
Abatement Notice can ABATE PROHIBIT RESTRICT SPECIFY WORKS
Abatement Notice can be appealed Not a nuisance Defect informality Error Unreasonable
Use of the 'BEST PRACTICABLE MEANS' as defence
Magistrates Court can Cancel Quash Vary

THE COUNCIL CANNOT REQUIRE CLOSURE OF SITE OR CESSATION OF ACTIVITIES

2. Environmental Protection Act 1990, Part III

'BEST PRACTICABLE MEANS' (Environmental Protection Act 1990 - section 79(9))

This defined as having regard;

- to local conditions and circumstances
- to the current state of technical knowledge
- to the financial implications; (e.g. EA requirements and technical guidance for the operation of a landfill)
- the means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and structures

'Best Practicable Means'

- is only to apply so far as compatible with any duty imposed by law; (This would include conditions relating to the Permit)
- is to apply only so far as compatible with safety and safe working conditions, and with the exigencies of any emergency or unforeseeable circumstances

CONSENT FROM THE SECRETARY OF STATE IS REQUIRED TO PROSECUTE FOR BREACH OF AN ABATEMENT NOTICE

BEST PRACTICABLE MEANS IS ULTIMATELY A DECISION OF THE COURT.

COUNCIL CANNOT DETERMINE THAT BEST PRACTICABLE MEANS EXISTS AND USE THIS AS A REASON NOT TO SERVE AN ABATEMENT NOTICE.

3. How we Investigate Complaints

ONLINE	www.Newcastle-staffs.gov.uk	Click the link on the home page to report Walleys Quarry Concerns
BY PHONE	01782 717 717	(Monday – Friday 08:30am to 17:00pm)

- Residents can report all matters, odour, noise, gulls, mud
 - Online complaint can be made 24/7
 - Aim to provide a response to complaints reported as happening now and falling within the remit of the Council during working hours (Monday to Friday, 9am to 5pm).
 - For complaints out of hours officers will be on call during a typical period when we would expect to receive significant complaints (winter time)
 - Real time notification of complaints to landfill and EA from 20/02/20(personal information not shared).
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3. How we Investigate Complaints

We take account of case law, guidance and standards in determining a nuisance

DEFRA Odour Guidance for Local Authorities (Although withdrawn provides useful information to support an investigation and assessment) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/645286/pb13554-local-auth-guidance-100326.pdf

Interaction between Environmental Permitting and local authorities' statutory nuisance duties September 2017
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/646373/epr-statutory-nuisance-sept-2017.pdf

Environmental permitting: H4 odour management - <https://www.gov.uk/government/publications/environmental-permitting-h4-odour-management>

Guidance on Odour Assessment for Planning - <https://iaqm.co.uk/text/guidance/odour-guidance-2014.pdf>

Gov.Uk <https://www.gov.uk/guidance/nuisance-smells-how-councils-deal-with-complaints>

3. How we Investigate Complaints

- Visits to people at home / workplace during day. Out of hours – to coincide with peak period.
- Officers trained and experienced – scheme of delegation.

Statutory Nuisance: Need to consider and evidence material interference with reasonable use and enjoyment of property This includes Frequency, Duration, Effects, Character of area, Time of day,

Odour is typically characterise according to 5 'FIDOL' factors:

Frequency – How often the exposure occurs

Intensity – The perception of strength of the odour according to the VDI 0-6 scale

Duration – Length of odour event or length of time exposed

Offensiveness – Hedonic tone (Pleasant, neutral, unpleasant)

Location – Type of receptor – residential most sensitive

Engage and give an opinion / answer questions, acknowledge concerns. We are transparent in our assessment.

**ENFORCEMENT ACTION IS EVIDENCED BASED
A DECISION TO SERVE AN ABATEMENT NOTICE MUST MEET ALL THE NECESSARY LEGAL TESTS**

Instrumentation not used – odour contains many chemical components. Nose is sensitive to a wide range, particularly sulphurous odour. Portable devices typically measure PPM, and designed to measure the concentration of a particular chemical and concerned with safety. We are interested in odour which can be detected at PPB and whether a statutory nuisance.

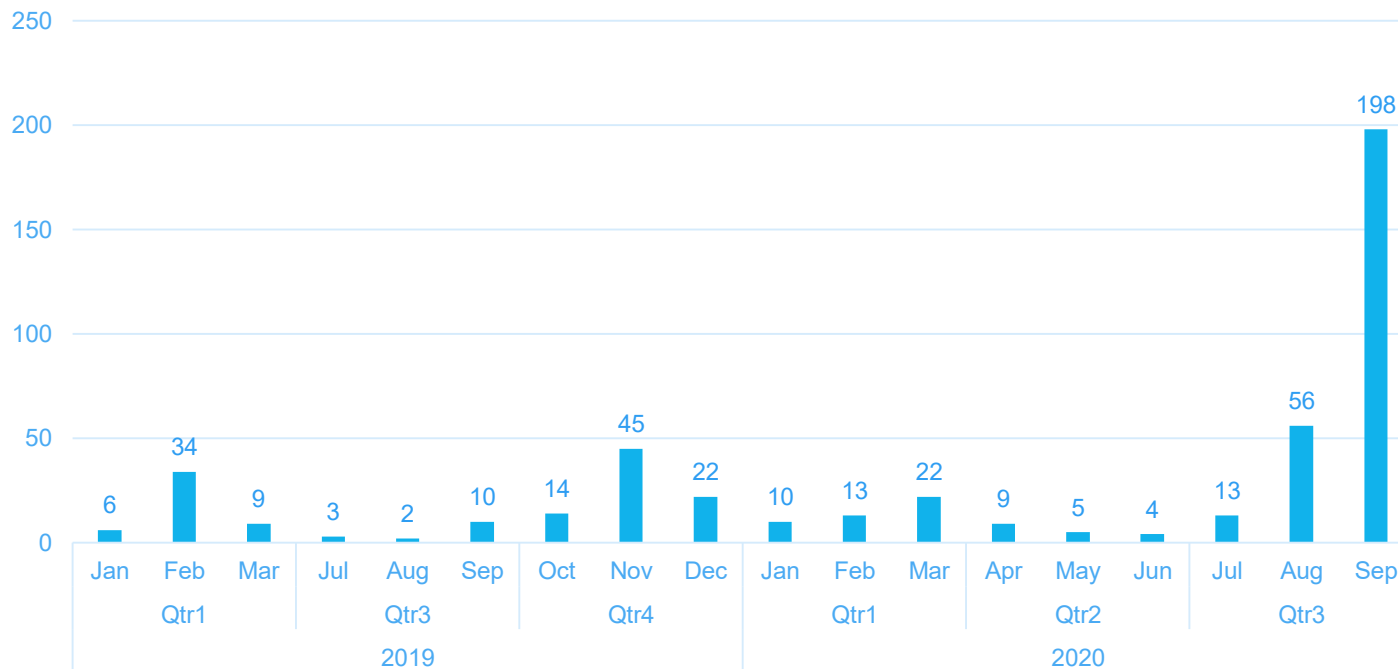


Newcastle under Lyme Borough Council
Environmental Health Division

Odour investigation form	Date	Time	Duration on site
Address	Officer	Case Ref APP /	LAREF RPO /
Met Data https://www.metoffice.gov.uk/weather/observations/gcomsosgmg			
Weather conditions (dry, rain, fog, snow etc): Wind strength (none, light, steady, strong, gusting) Wind direction (e.g. from NE)		Temperature (very warm, warm, mild, cold, or degrees if known)	
Where is the odour at the address?			
Odour description			
Constant or Intermittent			
Intensity Rating *			
Receptor Sensitivity *			
Effects reported by client at time of visit			
Officer Comments			
Source identified? How?			

Intensity	4 Strong odour	Receptor sensitivity
0 No odour	5 Very strong odour	Low (e.g. footpath, road)
1 Very faint odour	6 Extremely strong odour	Medium (e.g. industrial or commercial workplaces)
2 Faint odour		High (e.g. housing, pub/hotel etc)
3 Distinct odour	Ref: German Standard VDI 3882, Part 14	

Walleys Quarry Landfill - Complaints to Newcastle under Lyme Borough Council by month Jan 2019 to September 2020



Number of complaints	496
Number rating odour	186
0 – No odour	5
1 - Very faint odour	1
2 – Faint Odour	2
3 – Distinct Odour	8
4 –Strong Odour	30
5 – very strong odour	35
6 – Extremely strong odour	105

Where affected	
Public Place	58
Home	309
not specified	115
Road	2
Outdoors	2
Cemetery	4
home / public place	53

1. When affected	
Bedroom	2
Night	6
Indoors	282
Outdoors	2
indoor / outdoors	163
not specified	120

From description of complaints – a significant number reporting issues at home during the evening and night – Looking to provide an investigation resource subject to Covid restrictions.

31 complaints responded to during working hours in 2019-20 (visit to homes and workplaces) – majority no odour present at time of visit

5. Air Quality Standards

Particulate Matter

Comes from a number of sources – industry, transport, combustion, dust, agriculture

2020 Monitoring Network Data

Gravimetric PM10 Daily >50ugm3

	Number of exceedances	Maximum PM10 ug/m3	(maximum number of allowed exceedances is 35 per annum)
Stoke on Trent (A50 Roadside at Meir)	1	51	
Warrington	1	53	

Note: One location in London exceeded the annual allowance in 2019

Gravimetric Daily PM2.5 Annual Mean >25ug/m3

	Number of exceedances	Maximum PM2.5 ug/m3	Data Capture
Stoke on Trent (A50 Roadside at Meir)	0	7	96.9%
Warrington	0	8	94.9%

Note: all sites in London met EU requirement in 2019 for PM2.5

Current UK standards based on EU requirements. Government currently considering whether to adopt a more stringent 10 µg m-3 target for PM2.5 based on WHO criteria.

6. Future Work

- Continue to respond to complaints
 - Provision of a resource to witness complaints out of hours
 - Take appropriate action
 - Assess future developments on site and around the area and provide appropriate comments
 - Work with others
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Questions?

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