

CABINET

Wednesday, 21st April, 2021
Time of Commencement: 2.00 pm

Present:-	Councillor Simon Tagg – Chair
Councillors	Stephen Sweeney, Trevor Johnson, Helena Maxfield, Paul Northcott and Jill Waring
Officers	David Adams, Martin Hamilton, Simon McEneny, Daniel Dickinson, Denise French and Sarah Wilkes

101. **HRH PRINCE PHILIP, THE DUKE OF EDINBURGH AND THE MAYORESS, MRS ANGELA COOPER**

Since the last meeting of Cabinet, the death on 9th April, had been announced of HRH, Prince Philip, the Duke of Edinburgh.

On Monday 19th April, the Mayoress, Mrs Angela Cooper, had passed away after a long illness.

Members paid tribute to Prince Philip noting his sense of duty and the legacy of the Duke of Edinburgh Award Scheme.

Members paid tribute to Mrs Cooper, who all remembered as a friendly and bubbly personality who had embraced her role as Mayoress.

All present observed one minute's silence.

102. **APOLOGIES**

There were no apologies for absence.

103. **MINUTES**

Resolved: That the minutes of the meeting held on 17th March be approved as a correct record.

104. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

105. **UPDATE ON ON-GOING ODOUR PROBLEM AFFECTING THE BOROUGH**

Cabinet considered a report on the on-going odour problem that was affecting the Borough and was widely believed to come from Walley's Quarry Landfill Site in Silverdale.

The Chief Executive introduced the report. The odour issues had been the subject of the Extraordinary Council meeting on 18th March. A number of actions had been taken following that meeting and the Chief Executive updated:

- The Environment Agency (EA) had been requested to require RED to suspend operations. They had responded that this action would have little practical effect as RED had suspended accepting new waste in March. The EA also explained that odour issues were from older waste that was decomposing rather than new waste;
- The CCG and Public Health England (PHE) had been requested to arrange health screening to those who were impacted. PHE had advised they were to use a process called Real Time Syndromic Surveillance; and were looking at accessing information directly from GPs. The CCG was working with Keele University to analyse historic health data and Air Quality data.
- Aaron Bell MP was to meet with the Secretary of State for the Environment, Food and Rural Affairs regarding both the odour issues in general and the Council's request that an investigation be held into the EA's handling of the permit relating to Walley's Quarry.
- Neighbouring Councils were in support of the Council's action.

The Chief Executive then updated on each of the recommendations from the Scrutiny Review which were specifically for action by the Council:

- Recommendation 1: undertake a review and appraisal of EA monitoring data and work with the EA for any future monitoring – Air quality consulting company Ricardo had been commissioned to review the first two EA monitoring campaigns. Their findings were set out in the report and had been shared with the EA. They concluded that the EA monitoring focused on the health risk rather than the associated nuisance impact arising from odours and hydrogen sulphide.
- Recommendation 2: prepare and undertake air pollution monitoring, the results of which shall be made available on the Council's website – the Council was to jointly fund with the EA and County Council an additional two monitoring units. The data would be reviewed weekly by Public Health and rated as Red, Amber, Green against World Health Organisation thresholds. It would be published after a validation process and be shared with agencies; it was important that data was validated to give confidence. A similar approach would be taken to rate odour in terms of nuisance ratings.
- Recommendation 3: request confirmation from the EA as to the odour source(s) and specify appropriate method of control. As noted in the report, there had been recent breaches of the EA permit including one significant breach. The Council and EA had also been informed by RED that they had identified an alternative source of the odours but further detail was yet to be supplied. The EA had identified specific measures to be undertaken by RED – gas management and capping – to alleviate odours. The EA were working to a deadline of 30 April to assess the effectiveness of these measures.
- Recommendation 4: undertake odour nuisance investigations to establish whether a statutory odour nuisance exists under the provisions of section 79 of the Environmental Protection Act 1990 and to comply with the legal duties under that Act. The Council's Environmental Health Officers had been undertaking Odour Tours to collect consistent information on levels and source of odours; officers were endeavouring to respond in real time to odour reports; there were also a number of specimen properties in the town based on knowledge of where odours were particularly impactful.

- Recommendation 5: seek legal advice regarding any other legal routes to remedy odour and other issues identified to support the local community, business and residents. The Council had taken legal advice on potential action as outlined in the report. The Council had also commissioned work from a technical expert with specific knowledge of landfill who was reviewing information and providing reports on findings.

The Leader referred to a number of questions submitted via social media:

- Could an explanation of 'statutory nuisance' be given? The Head of Environmental Health gave a detailed explanation. In summary, the Council would need to consider if the odour was prejudicial to health or causing a nuisance; there were 7 criteria to take into account. There would need to be notice taken of existing Case Law and precedents. If, after detailed consideration, the Council concluded there was a Statutory Nuisance there would be a duty to serve an Abatement Notice. This would prohibit, restrict or require works to be taken but the Council could not require the site to be closed. There would be a right of appeal to the Magistrates Court. One of the main defences would be for the operator to show they were using Best Practicable Means (BPM). It was likely the EA would be called as a witness and their procedures included requiring use of Best Available Techniques – this was very similar to BPM. It should also be noted that the site held an Environmental Permit and should any further action be considered, beyond an Abatement Notice, this would require the permission of the Secretary of State.
- When would the investigation be concluded? The Chief Executive explained that the Council would continue to investigate as long as complaints were received. The Council had also put in place a number of measures, as outlined above, which would provide information and evidence to produce a consistent picture.
- Would the Council take legal action against the operator? The Chief Executive referred to the above answer from the Head of Environmental Health. The Council had taken legal advice and if the Council identified a Statutory Nuisance then there was a duty to serve an Abatement Notice.

Members then discussed the report and presentations and raised issues as follows:

- It was noted that the EA had now acknowledged in written communications to residents that odours were emanating from Walley's Quarry rather than stating the odours were arising from the vicinity.
- Members raised concerns that the odours were similar to gas odours and this could cause issues of dismissing gas leaks as being Quarry odours.
- Were the EA attending on site? It was confirmed that the EA were on site on a regular basis and were undertaking planned and unplanned visits; they had advised the capping works were progressing.
- There appeared to be pools of liquid on site and this had been shown on drone footage; had this been identified? The Chief Executive explained that this had been raised with the technical expert and their comments awaited.
- Did Council officers visit the site? The Head of Environmental Health explained that the Council had attended on site on one occasion but the Council's focus and role in line with legislation was to look at the impact on residents and businesses and communities. Council officers were visiting the area and specimen properties on a daily basis including weekends. It was not the Council's role to regulate the site.
- Was there a timeline for when further action might be taken? The Chief Executive advised this was dependent on evidence. It was expected that a

decision would be made fairly soon as to whether a Statutory Nuisance was occurring based on all the evidence and criteria as outlined at the meeting.

A number of other questions had been received:

- What advice could be given to vulnerable members of the public experiencing hydrogen sulphide in their homes? The Chief Executive explained the Director of Public Health had advised the risk of sustained health impact was low but he encouraged people experiencing a physical or mental health impact to speak to GPs or NHS Direct or A&E as necessary; this would ensure help was given and would also build an evidence base. Secondly, he suggested they report it to the Council, the EA and RED industries.
- Could people access temporary accommodation to gain respite? The Chief Executive explained the Council's responsibilities here were in relation to Emergency Planning which related to extreme circumstances such as an explosion or risk of explosion. In such a case the response could include opening a rest centre for a temporary period to deal with an emergency. It was not appropriate in these circumstances.
- Could the Council do some health monitoring? The Chief Executive suggested such monitoring would need to be ongoing rather than a snapshot. The Council needed to be guided by health professionals who advised gathering the information from the health services above – GPs, NHS Direct (111) and A&E and residents were urged to report issues as outlined.
- Reference was made to Thistleberry Residents Association and their role and remit. The Leader advised that Aaron Bell MP was in contact with this organisation and they were part of the Liaison Committee. The Council's role was to communicate with all groups on an equal basis.
- A question was raised about the impact of HGVs, traffic levels and queuing on local roads. The Chief Executive said the planning permission set the operating hours from 7.00am but it was unclear if this extended to queues outside the site. If vehicles could not queue on adjoining roads it could push the issue further out onto other roads. This matter was being considered by the County Council as Highway Authority. If residents were aware of tipping outside the set hours they should report it.
- Was there any knowledge of a financial bond with the operators? This had been raised with the County Council and information awaited; there was no bond with the Borough Council.
- Could residents withhold Council Tax? This was advised against; it could impact local services both those provided by the Borough and by the County Council.
- Could EA data be publicised especially relating to March and April? The Council was urging the EA to publicise data as soon as it had been validated.

The Leader referred to information from the operator about an alternative source of problem odours but as noted in the report, the Council had not had sight of the reports from REDS's advisors.

There had been requests that meetings of the Liaison Committee be webcast but to date the operator had refused this request. The Leader advised he would not be attending the meetings in his role as County Council representative until the operators were willing to webcast the liaison meetings and understood that the Borough representative, Councillor Jones, had also taken this approach.

Resolved: That:

- (a) the latest position regarding problem odours in the borough be noted;

- (b) the progress made on the actions arising from the extraordinary meeting of full Council on 18th March 2021 be noted; and
- (c) the programme of work as set out in the report be endorsed.

106. NEWCASTLE TOWN CENTRE FUTURE HIGH STREET FUND AWARD

Cabinet considered a report on the Future High Street Fund grant award. MHCLG had confirmed the grant award in December but had allocated 69% of the submission amount due to overall demand for the Fund. The Council had accepted the reduced amount and removed the Midway Car Park demolition from the scheme along with reducing expenditure on public realm projects. The report set out that the grant had now been received and recommended some match funding towards the scheme of projects.

The report also listed the key projects which included:

- Demolition of the former Civic Officers at Ryecroft
- A new multi-storey car park at Ryecroft
- Improvements to the market area
- Improvements to part of upper High Street
- Pedestrian wayfinding

Resolved: That:

- (a) The Ministry of Housing Communities and Local Government Future High Street Fund grant of £11,048,260.00 be accepted.
- (b) The scheme of projects that the grant amount will fund be accepted.
- (c) The £3.5m of match funding towards the scheme of projects be approved; and.
- (d) The Executive Director Commercial Development and Economic Growth be authorised to work with the Leader of the Council to deliver the projects as set out within the grant award.

107. NEWCASTLE UNDER LYME PLAYING PITCH STRATEGY 2021 - 26

Cabinet considered a proposed Playing Pitch Strategy for the period 2021 – 2026 which set out the Council's strategy for identifying and meeting the playing pitch and associated facilities needs of the Borough from the present until 2026. It included all playing pitches in the Borough both in public and private ownership. It included natural and artificial pitches used for a wide variety of sports including football, netball and bowls. The Strategy would be a useful document towards bidding for funding towards sport and leisure needs. It was also an important document for the Borough Plan as part of the evidence base.

Resolved: That:

- (a) The Newcastle under Lyme Playing Pitch Strategy 2021 – 2026 (PPS) be approved and be the basis for making strategic decisions on future playing pitch provision and associated facilities across the Borough; and
- (b) A review of the PPS be carried out by the Steering Group on an annual basis and any significant changes be reported to Cabinet, to ensure that identified local priorities continue to be achieved.

108. INTERNAL AUDIT SERVICE LEVEL AGREEMENT UPDATE

Cabinet considered the Services Agreement for Internal Audit Services between Stoke on Trent City Council and the Borough Council. The Agreement needed

approval to ensure the continuation of the Internal Audit service provided by Stoke on Trent City Council along with their service to the Council of fraud detection and prevention.

Resolved: That the updated Internal Audit Service Level Agreement be approved.

109. **FORWARD PLAN**

Consideration was given to the Forward Plan listing upcoming key decisions to be made by Cabinet.

Resolved: That the Forward Plan be received subject to one amendment to move the report on Newcastle Crematorium from the July Cabinet meeting to the meeting of Cabinet on 9 June 2021.

110. **URGENT BUSINESS**

There was no Urgent Business.

COUNCILLOR SIMON TAGG
Chair

Meeting concluded at 3.14 pm