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Council - 14/02/24

COUNCIL

Wednesday, 14th February, 2024
Time of Commencement: 7.00 pm

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Present: Mayor - Councillor Simon White (Chair)

Councillors:	Adcock	Fox-Hewitt	Sweeney
	Allport	Hutchison	J Tagg
	Barker MBE	Johnson	S Tagg (Leader)
	Bettley-Smith	D Jones	J Waring
	Brockie	Lawley	P Waring
	Brown	Moss	Whieldon
	Bryan	Northcott	G White
	Crisp	Panter	Wilkes
	Fear	Parker	G Williams
	Gorton	Reece	J Williams
	Grocott	Richards	Wright
	Heesom	Skelding	
	Holland	Stubbs	

Apologies: Councillor(s) Beeston, Burnett-Faulkner, Dymond, Edginton-Plunkett, S Jones and Lewis

Officers:	Geoff Durham	Civic & Member Support Officer
	Martin Hamilton	Chief Executive
	Simon McEneny	Deputy Chief Executive
	Sarah Wilkes	Service Director - Finance / S151 Officer
	Georgina Evans-Stadward	Service Director - Strategy, People and Performance
	Nesta Barker	Service Director - Regulatory Services
	Anthony Harold	Service Director - Legal & Governance / Monitoring Officer
	Craig Jordan	Service Director - Planning

Also in attendance:

1. **TRIBUTES TO FORMER COUNCILLOR DAVID NIXON**

Members stood in silent in memory of former Councillor David Nixon.

Tributes were paid to David for his roles at the Borough Council.

[Watch the tributes here](#)

2. **DECLARATIONS OF INTEREST**

Cllr Jones declared being employed by Harper & Keele Veterinary School located next to Walleys Quarry.

3. UPDATE ON THE ONGOING WORK ON ODOURS FROM WALLEYS QUARRY

The Leader introduced the update report on Walleys Quarry expressing his sympathy for residents along with the dread and disappointment he shared with them in relation to the toxic smells coming from the site. The report was a comprehensive document that could be used for future public enquiry.

The abatement notice had been pursued by officers within the legal framework thanks to the funds allocated through Council decisions and everything within the Council's powers was being done to address the problem. It was felt that other institutions could do more. The Labour Party had brought forward a motion to request the suspension of activities on the site. An amendment was proposed to go further and ask for the full closure of the site by the Environment Agency – a simple suspension not appearing sufficient enough given the three years already allocated to tackle the problem.

A letter had been addressed to both the Secretary of State and the Prime Minister calling for a public enquiry. The proposals put forward by the Labour group would be discussed and amended during the meeting.

The Leader's recommendation for a closure of the site was supported by the Portfolio Holder for Strategic Planning Cllr Fear.

Members commented as follows:

- Cllr Stubbs wished the Council to show solidarity for residents and for the regulatory agencies to be held responsible for environmental justice, environmental protection being not an aspiration but a legal imperative.
- Cllr Brown warned against the perception of leniency of the Environment Agency if not enforcing regulations and not imposing penalties in case of non-compliance. Other operators may as a result choose to take risks and prioritise short term savings over compliance to regulations, driving compliant operators out of the market and leading to a normalisation of non-compliance. Cllr Brown wished to know if the Council had reached out to the Environment Agency to warn against the national consequences.
- Cllr Jones thanked officers for the reports and wished for the raw figures to be reviewed and notably those pertaining to the odours as recorded on 25th and 26th November as well as 13th, 14th and 16th December 2023. The health consequences were dramatic meeting the definitions of environmental harm.
- Cllr Bettley-Smith agreed with Cllr Jones and reiterated the risks of long term consequences on health of low level exposure to a

poisonous gas such as hydrogen sulphide. Cllr Bettley-Smith wished to support a public inquiry into the failure of the Environment Agency.

- Cllr G White commented that his ward was also impacted although not right next to the quarry and wished to support all punitive measures including the closure of the site.
- Cllr Brockie enquired about the removal of one of the monitoring stations from Silverdale pumping station and when the construction works would be complete so that it could go back to its initial location.
- Cllr Richards raised the issue of education providers such as schools and universities not being able to provide an adequate environment to pupils and students. Two primary schools had to be evacuated as a result of the odours which impact on learning and education was to be added to the health hazard. Cllr Richards asked if contact had been made with the County Council or education providers to mitigate the impact of lost days of learning.
- Cllr Lawley asked about the suitability of restoration plans to ensure the gases would be contained once the site would be closed.
- Cllr Reese warned against reporting fatigue detrimental to organisations and leading to feeling of overwhelm and burnout which may be experienced by residents when reporting complaints and not hearing back from the Environment Agency.
- Cllr Holland expressed his support to the various ways suggested for people to be held accountable, the first step being to close the site and cap it off.
- Cllr G Williams wondered if the Council acceptance of the settlement agreement hadn't been a mistake given that no progress had been made in preventing the unacceptable levels of gas emission.
- Cllr Wright asked if the Council had been in contact with the Health Protection Agency in relation to the increase of mental health issues arising from the odours and the strain it put on already overburdened mental health services.
- The Deputy Leader re-iterated the imperative reminded by Cllr Holland to close the site as a first step.
- Cllr Grocott also supported the need to close the site to start with and asked if workplace monitoring and health assessments had been carried out for employees of the Council working in immediate vicinity of the site.

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- Cllr Moss questioned the efficiency of posi-shell in tackling odours and wondered why the Environment Agency had not requested that odour shells be used instead.
- Cllr Whieldon underlined that the only one in a position to take action now was the Environment Agency who was hiding behind false readings.
- Cllr J Williams commented on the compliance classification schemes used by regulatory agencies and based on which Walleys Quarry should be closed.
- Cllr Adcock said the situation was deteriorating rapidly and the regulator seemed to have lost control over the odour emissions which were devastating for both physical and mental health as well as education. Support was expressed for both the closure of the site and a public enquiry into the failings of the Environment Agency.
- Cllr Grocott asked when the independent peer review sourced out by the Environment Agency and that was expected by the end of January would be available to the public.
- Cllr Panter expressed his support to Cllrs Jones, Adcock and Bettley-Smith comments on the medical consequences of the gas emissions.

The Leader welcomed the comments raised by members and said that he was disheartened by how the situation had evolved since November.

Responding to members' questions the Leader stated the following:

- About the posi-shell, this seemed to have failed miserably and the capping plans were to put a membrane across the site and add soil on top. The gas emissions would then need to be managed for the next 40 years after closure.
- The third monitoring station removed at Silverdale, this had been discussed at Cabinet meeting and officers were chasing the Environment Agency for it to be re-installed so that there would be again three monitoring stations switched on and calibrated.
- About the effect on schools, this had been raised in the letter to the Secretary of State by Newcastle's MP.
- About calls to the Environment Agency and make sure they were connected, this was also taken up by officers.

Members would be asked to vote on the motion put forward by the Labour Group to request the suspension of activity and amendment suggested to go further and ask for a full closure of the site along with a public enquiry on how things had been handled by the Environment Agency.

Resolved: That the content of the update report be noted and the amended motion be subject to a vote.

[Watch the debate here](#)

4. **MOTIONS OF MEMBERS**

Cllr Jones presented the proposed motion of suspension of the operating license at Walleys Quarry and expressed his support towards amending the motion in favour of a full closure of the site. Cllr Jones moved the motion which was then seconded by Cllr Fox-Hewitt who summarised it as follows:

- that the Council be unequivocal that the people of Newcastle-under-Lyme were living with a significant Public Health Emergency;
- that the Council hear from residents and communities who had put them there to be their voice;
- that the Council demand that the site be closed as per the amendment and for the Environment agency to do their job and publish the data that it was charged with providing the people;
- that the Council use the process of a judicial review to force those charges towards protecting the health and security of citizens;
- that the Council agree to use its financial resources originating from people paying their council tax to that extent.

The Leader presented and moved the amendment to the motion. This was seconded by Cllr Holland who expressed the wish for the Council to speak with one voice.

Cllr Fox-Hewitt suggested changes to the wording of the amendment. Cllr Jones supported the suggestions. The Leader wished to stick with the amendment as presented to the Council and clarified the wording.

Cllrs Adcock, Bettley-Smith and Fear expressed their support to the amendment as drafted. Cllr Whieldon highlighted the importance of getting things right the first time to ensure success.

Cllr Jones drew members' attention to two red lines in the amendment:

- there was in his opinion no commitment to direct action;
- the legal support fund was one third of the original reserve of £1 million.

The Leader responded that once a closure notice was issued by the Environment Agency, a series of actions would follow that decision. The Walleys reserve, to support legal action, would be increased by a vote of Full Council if officers advised prosecuting the abatement notice.

The Leader moved the amendment as drafted.

The Mayor stated that the proposed amendment had been moved, seconded and debated and members were asked to vote on whether or not to amend the motion as proposed.

Resolved: That the amendment be carried.

(23 in favour, 16 against)

The Mayor invited members to debate on the amended motion.

Cllr Holland reminded members of the importance of being united.

The meeting was adjourned for two minutes following disturbance from the public. The Chief Executive then clarified that the debate and vote were now on the amended motion.

Cllrs J. Williams and Heesom encouraged members to set political differences aside to do what's best for residents. Cllr Moss reminded all of the health hazards related to hydrogen sulphides. Cllr Allport referred to the impact of the toxic odours on Council staff working in the vicinity of the site including sleep and mental health.

Cllr Jones expressed his disappointment at the way the amended motion was drafted whilst informing members that he would nonetheless vote in favour of it as the only way forward for residents.

Cllr Richards also supported the motion although wished to know what action would be taken to restore the site after closure.

Cllr Fear referred to paragraphs 8.1 and 8.3 of the report and shared his confidence that legal officers would let members know in case the judicial review process was not going anywhere.

The Leader concluded by reiterating his support with the amended motion which he wished to move forward.

- Resolved:**
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 16th 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/m³ 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.

(37 in favour, 1 against)

[Watch the debate here](#)

**Mayor - Councillor Simon White
Chair**

Meeting concluded at 9.21 pm

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