

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

CORPORATE LEADERSHIP TEAM'S

REPORT TO CABINET

10 September 2024

Report Title: Walleys Quarry – Odour Issues

Submitted by: Chief Executive

Portfolios: Sustainable Environment; One Council, People & Partnerships

Ward(s) affected: All

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

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. 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 Grego 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 needs 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. Such consent has been obtained.
- 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 from June 2024, reported on a weekly basis. Historical complaint data is attached to this report as Appendix 1.

	Complaints to NuLBC	Complaints to Environment Agency
June 2024		
03/06/24- 09/06/24	38	114
10/06/24- 16/06/24	50	147
17/06/24- 23/06/24	67	189
24/06/24- 30/06/24	117	298
July 2024		
01/07/24- 07/07/24	45	103
08/07/24-14/07/24	52	155
15/07/24 -21/07/24	118	277
22/07/24 -28/07/24	93	189
August 2024		
29/07/24- 04/08/24	61	162
05/08/24-11/08/24	53	143
12/08/24-18/08/24	50	160
19/08/24-25/08/24	58	185
26/08/24-01/09/24	7	46

- 2.2 Officers highlight any odour events where 10 or more odour complaints have been recorded.

July 2024

There have been 13 odour events in the month of July 2024:

- Monday 08 July 2024
- Friday 12 July 2024
- Wednesday 17 July 2024- Friday 19 July 2024 (3 consecutive days)

- Sunday 21 July 2024 – Wednesday 24 July 2024 (4 consecutive days)
- Saturday 27 July 2024 – Monday 29 July 2024 (3 consecutive days)
- Wednesday 31 July 2024

The highest number of complaints reported to NuLBC was on 19 July 2024 (30 complaints).

There was an upturn in complaints in July with the number of complaints above those reported in 2022 and 2023 for the same month.

August 2024

There have been 6 odour events in the month of August 2024.

- Friday 02 August 2024
- Monday 05 August 2024
- Monday 12 August 2024 - Tuesday 13 August 2024 (2 consecutive days)
- Tuesday 20 August and Wednesday 21 August (2 consecutive days)*

*An odour event occurred on 20 August which was predominantly during the evening and reported odour described as 'urine', 'sewage', 'manure' and 'toilet'. An odour event occurred the following day (21 August) with the same type of odour being reported during the day and evening.

An Officer visited the area at approx. 11:00 on 21 August and reported agricultural slurry odour at Rosemary Hill, Keele Bank and Barkers Wood Road, Keele. The wind direction was from the direction of Keele towards Newcastle town centre. The Officer deemed the odour as not related to Walleys Quarry at this time.

It is noted that the percentage exceedance above the WHO odour annoyance guideline across all 3 stations was 0% for the week 19 August – 25 August 2024.

The total number of complaints for August reported in Appendix 2 is 198 however this figure will be revised in the next Cabinet Report if Officers conclude that there was an alternative source of odour on 20 and 21 August.

2.3 The overall trend is for “spikes” in complaints when odours are prevalent.

NULBC Odour Assessments

2.4 Officers have undertaken odour assessments. 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.

In July, 4 spot assessments were undertaken of which landfill odour was detected in 2 assessments both with an intensity rating of 3.

In August, 2 assessments were undertaken over 5 mins, both recording a maximum intensity rating of 4. 37 spot assessments were undertaken of which landfill odour was detected in 14 assessments with intensity ratings from 1 (slight/very weak) to 4 (strong).

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 4.93ppb at Maries Way on 04 August 2024.

NULBC Actions

- 2.6** 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. That said, prior to entering into any formal legal action it is necessary for the Council to formulate a view with regard to this matter, this is ongoing.
- 2.7** At the core of next steps are two issues – whether the action taken by the Environment Agency as the primary enforcement agency 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.
- 2.8** On 29 July 2024 the Rt Hon Steve Reed OBE MP, Secretary of State Environment, Food and Rural Affairs responded to the Leader’s request for permission to prosecute Walleys Quarry Ltd. under statutory nuisance legislation.

“I am aware of the Walleys Quarry site and the odours from hydrogen sulphide that have been occurring around the site. I visited Newcastle-under-Lyme in January this year, meeting local residents affected by the odour, and subsequently wrote to my predecessor at Defra about this situation. I would like to take this opportunity to commend you and the council for your tireless work on behalf of local residents to seek the action and answers they need and deserve”.

“In terms of the request you have made to take a prosecution, I have taken into account the information provided by the Council and I have consulted with the Environment Agency. Having considered the facts of the case and as required under s79(10) of the Environmental Protection Act 1990, I am happy to grant consent for your prosecution to proceed”.

“I am keen to see a resolution to the problems around the site and know that the Environment Agency are continuing their work in relation to the site to this end”.

Scrutiny- Committee of Inquiry

- 2.9** A member-led committee of inquiry has been set up to look at the impact on local communities from the Walleys Quarry Landfill operation.

The specific lines of inquiry have been determined by Full Council and are as follows:

- What is the impact of the ongoing odour issue?
- What needs to be done next, and by whom, to bring about resolution?
- What, if any, opportunities have been missed to resolve this issue sooner?

The Committee held the first inquiry day on 24 July 2024 and considered the views of and responses to questions from:

Session 1 [Walleys Quarry Inquiry, Session 1, 23rd July 2024 \(youtube.com\)](#)

- NULBC - Regulatory Services
- Staffordshire County Council – Planning and Development
- Former MP Aaron Bell
- Leader of the Council Cllr Simon Tagg

Session 2 [Walleys Quarry Inquiry, Session 2, 23rd July 2024 - YouTube](#)

- Stop The Stink Cap It Off
- Stop The Stink
- Stop The Stink – Fight for Justice
- Walleys Quarry Liaison Committee Chair
- Silverdale Parish Council

Session 3 [Walleys Quarry Inquiry, Session 3, 23rd July 2024 \(youtube.com\)](#)

- Staffordshire County Council Director of Health and Care
- Dr Salt Health Campaigner for the community
- Dr Scott Silverdale and Ryecroft Practice

The Committee reconvened on 14 August and considered the views of and responses to questions from:

Session 4 [Walleys Quarry Inquiry, Session 4, 14th August 2024 \(youtube.com\)](#)

- Dr Scott Silverdale and Ryecroft Practice
- Adam Jogee MP
- Environment Agency
- UK Health Security Agency

2.10 The Committee will prepare an report and its recommendations will be submitted to Full Council on 25th September 2024.

Air Quality & Health

2.11 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 (EA).

2.12 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 (H₂S) monitoring data collected at the monitoring stations. This update is available at the following link [Latest News | Engage Environment Agency \(engagementhq.com\)](#)

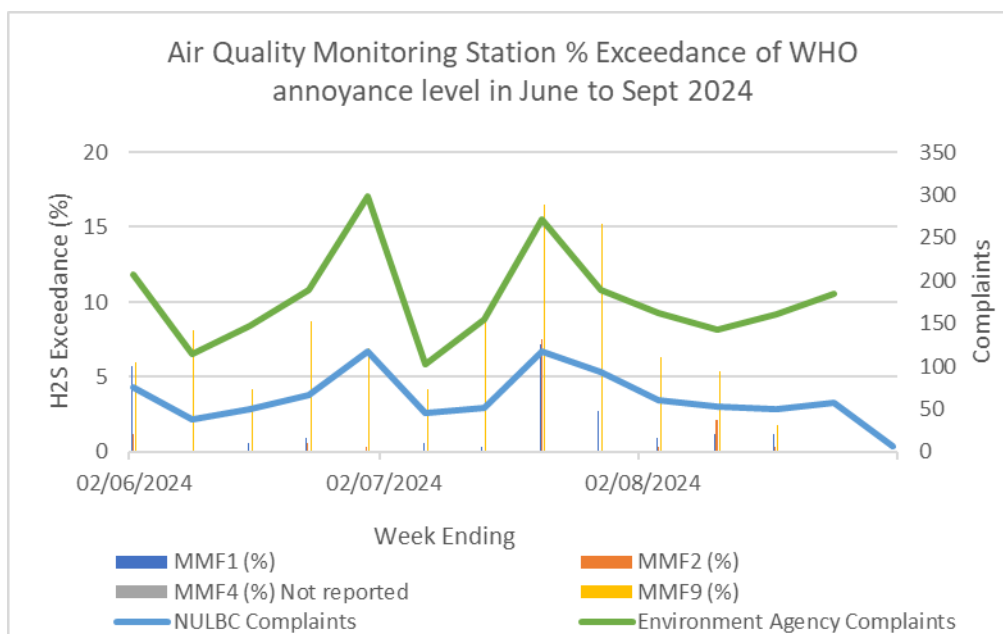
2.13 On 19 October 2023, the EA calibrated the H₂S analysers in MMF1 and MMF2. The EA have sufficient confidence in the raw data recorded for the week commencing 16 October 2023 to allow the EA to restart publishing data from MMF1 and MMF2.

2.14 The latest H2S data is set out in the table below, defining the proportion of the time periods where H2S levels were above the WHO Odour Annoyance guideline of 7ug/m³. Historic data is available in Appendix 4.

Time Period	MMF1 (%)	MMF 2 (%)	MMF 9 (%)
03 June - 09 June 2024	0.0	0.0	8.1
10 June - 16 June 2024	0.6	0.0	4.2
17 June - 23 June 2024	0.9	0.6	8.7
24 June - 30 June 2024	0.0	0.3	6.9
01 July - 7 July 2024	0.6	0.0	4.2
08 July - 14 July 2024	0.3	0.0	8.9
15 July - 21 July 2024	7.2	7.5	16.5
22 July - 28 July 2024	2.7	0.0	15.2
29 July - 04 August 2024	0.9	0.3	6.3
05 August – 11 August 2024	1.2	2.1	5.4
12 August – 18 August 2024	1.2	0.3	1.8
19 August – 25 August 2024	0	0	0
26 August – 01 September 2024	0	0	0.6

2.15 The weekly data for 19 August to 25 August 2024 shows 0% exceedance of the odour annoyance guideline. This is the first time since the MMF's were recalibrated that 0% exceedance has been recorded.

2.16 The complaint data and weekly % exceedance of the WHO annoyance level have been combined and is shown on the graph below:



2.17 On 30 August 2024 the EA provided the following update on the MMF stations.

From 2 September 2024 will be referring to our Mobile Monitoring Facilities (MMFs) according to their location. Adopting this change will make it clearer for members of the public and our partners where the MMFs are. It also gives us the flexibility to change

the name now that we have had to move a monitoring location and may need to do so again in the future.

The existing MMF locations will now be called:

- MMF Cemetery Road (formerly MMF 1)
- MMF Silverdale Pumping Station (formerly MMF 2)
- MMF Galingale Road (formerly MMF 9)

MMF Maries Way

In the week commencing 2 September 2024 we will be removing the MMF from the location at Cemetery Road. We will be replacing and moving it to another location 100m away. This new location will be called MMF Maries Way.

We would like to express our thanks to the owners of the Cemetery Road location who have hosted our MMF. We are relocating the MMF because it was becoming increasingly costly for the MMF to remain where it was.

The new location means that the MMF will continue to provide the same monitoring data and allow the UK Health Security Agency to provide its monthly health risk assessment.

MMF Silverdale Pumping Station

In our previous update on 13 March 2024, we explained that this MMF needed to be relocated at the beginning of September 2024 to enable Severn Trent Water Limited (STW) to carry out construction work at the location.

However, as STW's work has been delayed, the MMF will remain here for the next 2-3 months. We will continue working to identify another location for this MMF. When a new location is confirmed, we will provide an update.

MMF Galingale View

There are no changes for the MMF location at Galingale View.

H2S Data Adjustment Method

2.18 On 20 August the EA published the adjusted historic hydrogen sulphide (H₂S) monitoring data on the [Engagement HQ page](#). This page gives the (original) historic data and the adjusted historic data for all Mobile Monitoring Facilities (MMFs) around Walleys Quarry from May 2021.

2.19 The EA outlined the method used to adjust the historic data:
'We developed a methodology that would allow us to adjust the historic data. This involved using sulphur dioxide (SO₂) data that was considered to be reliable. When measuring H₂S the instrument used chemically converts H₂S into SO₂. This SO₂ data formed the basis of the recalibration of historic H₂S data.

This methodology was independently reviewed by a peer review group led by Defra's Chief Scientific Adviser. The peer review group consisted of experts from industry and academia with a range of knowledge and experience spanning instrument calibration and air quality measurement. The peer review concluded that the method we developed could be used to adjust the historic data where existing calibration slopes are available for SO₂'.

2.20 The adjustment method the EA developed involves using the historic sulphur dioxide (SO₂) calibration slopes as a surrogate for the hydrogen sulphide (H₂S) slopes. The SO₂ calibration slopes are not available for all of the instruments in the MMFs. The EA were 'not recording SO₂ calibration slopes routinely in March 2021'. This means that there are gaps in the data as the EA are 'unable to apply the adjustment method to specific data points where there is no SO₂ calibration slope available, and it is not possible to state what level of uncertainty applies'.

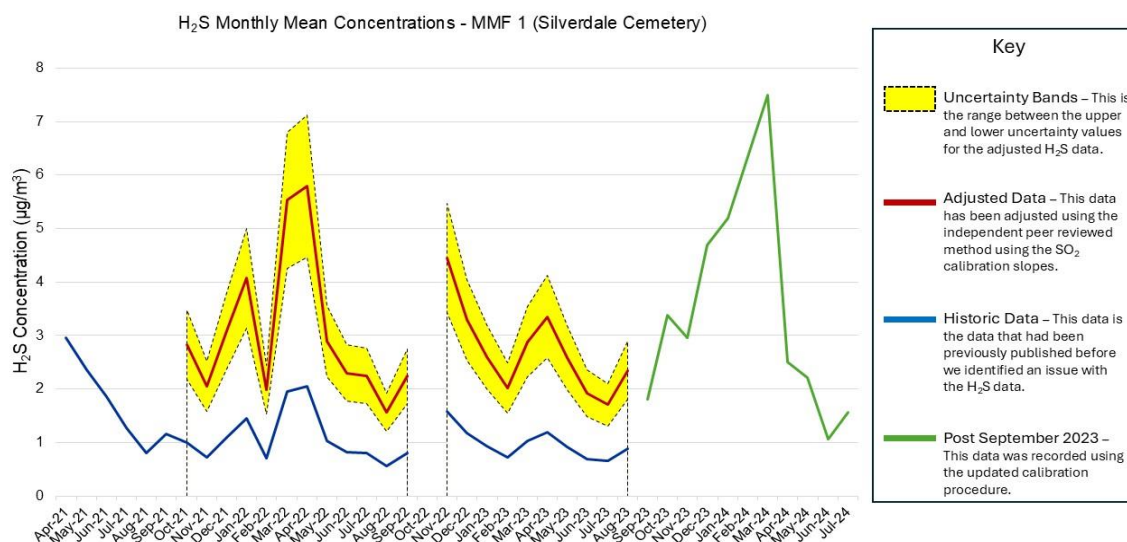
Understanding the adjusted historic data

2.21 The EA have adjusted the data sets and have shared:

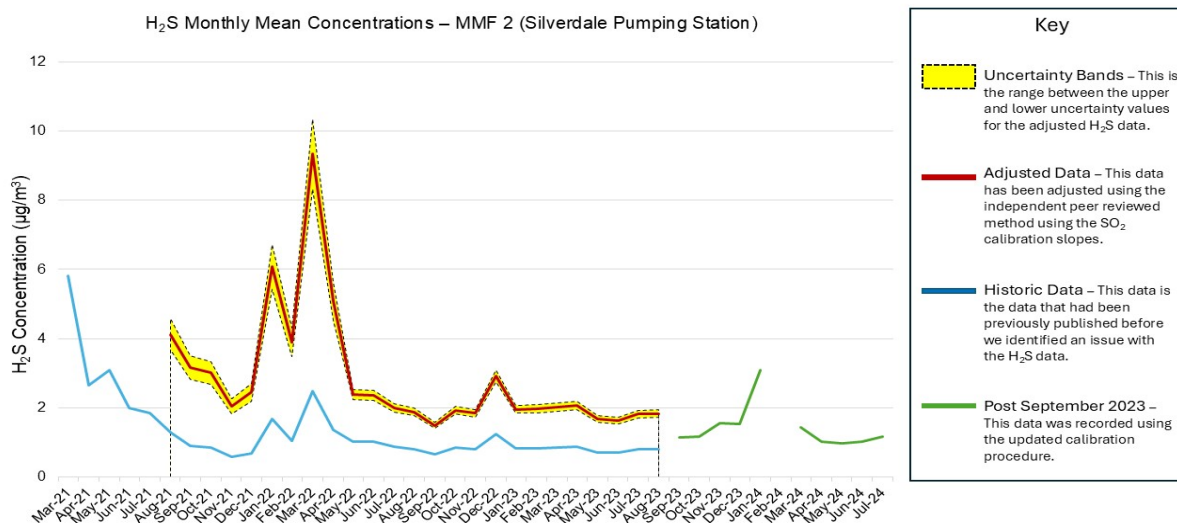
- the (original) historic data
- adjusted data and
- the associated uncertainty values (95% confidence) for the adjusted historic data.

2.22 For the full range of values recorded, please refer to the data [here](#). The EA have produced 4 charts, one for each MMF, to show the adjusted data set from 2021 to August 2023, and the data recorded using the updated calibration procedure between September 2023 and July 2024. The charts show you how the adjusted data compares to the original historic data. The links on the EA website enable you to view an enlarged version of the graphs.

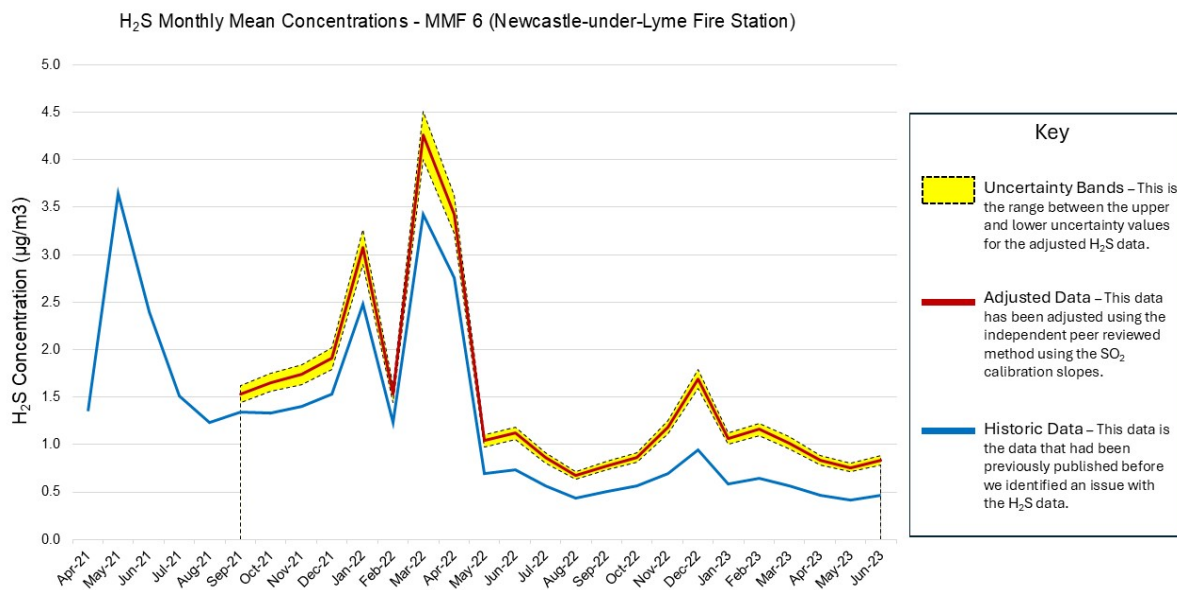
MMF 1 (Silverdale Cemetery)



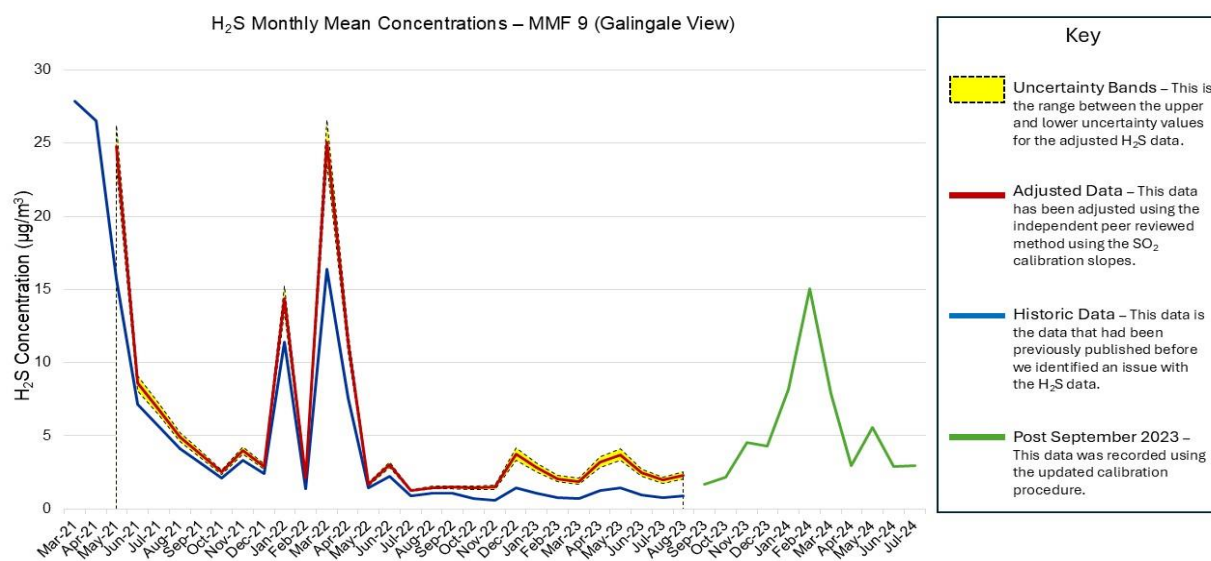
MMF 2 (Silverdale Pumping Station)



MMF 6 (Newcastle-under-Lyme Fire Station)



MMF 9 (Galingale View)



Note:

The vertical axis shows the level of H₂S Concentration in ug/m³. The range on the vertical axis varies across each station.

The Historic H₂S data (Blue Line) is displayed as monthly arithmetic means. The historic data underwent the data ratification process and was adjusted for drift and zero offset using SO₂ precision check data (based on the original calibration procedure). This line is the data that had previously been published before we identified an issue with the H₂S data.

The Adjusted H₂S data (Red Line) is displayed as monthly arithmetic means. This data has been adjusted using the independently peer reviewed method, which involves use of the available SO₂ calibration slopes.

The Uncertainty Band (Yellow Fill), is the range between the upper and lower uncertainty values for adjusted H2S data*.

The EA give an example for MMF 1 on 30 July 2022, the original value at 10:00am was 0.8, the adjusted value of this data is 2.26 with a lower uncertainty value of 1.74 and a higher uncertainty value of 2.78.

The upper dotted line shows the H2S Uncertainty upper value (95% confidence). This is the upper uncertainty percentage represented as a concentration with a confidence level of 95%.

The lower dotted line shows the H2S Uncertainty lower value (95% confidence). This is the lower uncertainty percentage represented as a concentration with a confidence level of 95%.

The green line represents H2S data recorded after September 2023 displayed as monthly arithmetic means. This data was recorded using the updated calibration procedure. It has undergone the data ratification process and has been adjusted for drift and zero offset using H2S precision check data.

** The uncertainty values are based on an hourly average at a limit value of 100 parts per billion (ppb) and an analyser range of 2000 ppb and defined oxidiser efficiency; and are displayed as monthly arithmetic means.*

Revised UKHSA Public Health Risk Assessment

- 2.23** The UK Health Security Agency provided a revised Public Health Risk Assessment, based on the adjusted historic monitoring data, which is accessible [here](#). It should be noted that the risk assessment is from March 2021 to August 2023.

The non-technical summary states:

‘The hydrogen sulphide data up to the end of August 2023 shows continuing exposure to the population around the landfill site. Over this period, the three closest MMF sites regularly exceeded the long-term (lifetime) health-based guidance value.

People living around the site are likely to experience health effects such as headache, nausea, dizziness, watery eyes, stuffy nose, irritated throat, cough or wheeze, sleep problems and stress described above. People who have health conditions that affect breathing, such as asthma and chronic obstructive pulmonary disease (COPD), may experience increased frequency and/or severity of symptoms. The risk to long-term (lifetime) health cannot be excluded, where concentrations are above the long-term health-based guidance value. Currently this risk is likely to be small.

UKHSA strongly recommends that all appropriate measures be taken to reduce the off-site odours from the landfill site, to reduce the health impacts experienced in the local community.’

- 2.24** On 28 August 2024 the EA hosted ‘a virtual public meeting with the UK Health Security Agency (UKHSA) to answer your questions on the adjusted data and UKHSA’s risk assessment. We would like to thank you and UKHSA for attending the session. We will be publishing the transcript of the meeting next week. We will now work through the remaining questions on Slido and publish these on our Engagement HQ site soon’.

Environment Agency Regulatory and Enforcement Action

- 2.25** 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>
- 2.26** 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.
- 2.27** 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
20/06/24	16/07/24	DP3734DC-0511150	Site inspection – unannounced	0
18/07/24	18/07/24	DP3734DC/05111517	Report/data review – temporary capping assessment report 2024 Q1	0

Incident: Landfill Fire 04 August 2024

- 2.28** On Sunday 04 August 2024 an incident occurred at approx. 22:00. Staffordshire Fire and Rescue Service [SFRS], as a first responder, attended the scene and commenced actions in line with the Walleys Quarry’s fire risk assessment.
- 2.29** At 23:00, SFRS reported to the EA that an area of waste approximately 25m³ was on fire at Walleys Quarry Landfill.
- 2.30** At 23:20 NULBC were notified of the incident by the Staffordshire Civil Contingency Unit which activated the incident management response.
- 2.31** Via the NULBC incident management arrangements, provisional plans were made by the Council to open a rest centre and provide support if the incident escalated, and if residents/ businesses had to be evacuated. In the initial response there was concern for residents of a Caravan Park adjacent to the site boundary.
- 2.32** The fire was brought under control the following morning (Monday 05 August) using mains water as the source of fire water and SFRS continued to support the site by carrying out periodic inspections. Drone surveys were used to identify any hot spots to ensure that the fire was fully extinguished.
- 2.33** The EA’s Air Quality Team shared air quality information with the UK Health Security Agency [UKHSA]. The advice given by UKHSA was that *‘any smoke can be an irritant, which can affect airways, eyes and skin, causing coughing, wheezing, breathlessness and chest pain. These symptoms are in line with what has been reported by residents. Substances in smoke can worsen health problems like asthma and heart conditions’*. UKHSA advised *‘if anyone is concerned for their health, they should contact NHS 111 online or get in touch with their GP’*. *‘People in areas affected by smoke should stay indoors and keep doors and windows closed. Any*

motorists who have to travel through smoke should keep windows closed and turn off air conditioning and keep air vents closed’.

2.34 EA staff were:

“involved in the immediate incident response and officers attended the site on Monday 5 and Tuesday 6 August to support SFRS, assess the surrounding area and site infrastructure and discuss Walleys Quarry Ltd’s (WQL) plans following the fire. Officers made it clear that we expect WQL to install permanent capping and gas infrastructure in the affected area as soon as it is safe to do so.

We are satisfied that the fire was contained to the surface of an area of freshly deposited waste. Following assessment officers were able to confirm that the existing landfill infrastructure, including gas extraction system and capping were all unaffected by the fire. The gas extraction system continued to operate during the fire.

All water used to extinguish the fire was either contained on site or evaporated. Officers sampled local watercourses and all water quality readings including at Silverdale Brook were normal.

SFRS has confirmed that the fire has been fully extinguished and on 6 August handed the site back to WQL. SFRS is leading the investigation into the cause of the fire and will continue to inspect the site regularly over the following days”.

2.35 Walleys Quarry Limited issued an operations update on 07 August:

“Following a surface fire, which started at approximately 22:30 on Sunday 4 August 2024 Walleys Quarry landfill site has now re-opened. The fire was extinguished successfully with Staffordshire Fire and Rescue Service departing site on Tuesday 6 August 2024.

Waste deliveries recommenced on Wednesday 7 August 2024.

During the incident, landfill gas infrastructure and the site capping systems were unaffected, remaining intact and operational throughout. The Gas Utilisation Plant was also unaffected and remained operational throughout.

We would like to thank the efforts of the Staffordshire Fire and Rescue Service and the police overnight to manage the fire, we also acknowledge that this will have been disruptive for the community around Walleys Quarry, and we apologise for this, along with thanking residents for their understanding.

An investigation has commenced to identify potential causes of the fire and review the response.

Should members of the community have any questions, please contact enquiries@walleysquarry.co.uk”

2.36 Staffordshire Fire and Rescue issued a statement on 21 August 2024 with details of their investigation:

‘A fire in a quarry in Staffordshire has been deemed accidental following an investigation.

On Sunday 4 August, a number of crews attended Walleys Quarry in Newcastle-under-Lyme.

At the height of the incident there were six engines, a water carrier and a high-volume pump being used to tackle the fire.

While it is difficult to determine the full cause of the fire, our investigation has found that it was likely caused accidentally as a result of a battery fire.

Fire Investigator, Liam Hickey said: "The rise in the number of electrical items containing lithium-ion batteries brings significant fire risk if they are discarded at waste sites instead of being recycled.

"When damaged, the batteries can be dangerous to the public, waste operators and firefighters as they cause fires that are challenging to tackle."

Lithium-ion batteries are found inside many everyday household items, including laptops, mobile phones and tablets.'

Walleys Quarry Update

2.37 On 05 September 2024 Walleys Quarry issued a statement: 'Walleys Quarry has applied to Staffordshire County Council for a pre-application meeting with its planning department. This forms part of a project Walleys Quarry is undertaking to explore options and opportunities to complete the restoration of the landfill site sustainably, making enhancements and alterations to the existing restoration plans.

This is common practice within the landfill sector as requirements for site void changes in response to market conditions and emerging restoration opportunities.

At this time there a number of opportunities being explored by Walleys Quarry, some of these will be discussed with Staffordshire County Council and Walleys Quarry is awaiting a formal pre-application response.

Technical work to support a potential planning application is being undertaken, and following feedback from statutory consultees, Walleys Quarry will share more information about the emerging proposals.

During this time the landfill site will continue to operate in accordance with its existing planning permission and environmental permit'.

Impact Study

2.38 An Impact study, commissioned jointly by a group of public bodies, including Staffordshire County Council, Newcastle-under-Lyme Borough Council, the Environment Agency and UK Health Security Agency, will be carried out by the independent Arcadis Consulting and findings will be published later in the year.

Key Performance Data

2.39 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 2 and 3.

2.40 The data from the Council covers the period from June 2024 to August 2024 and provides complaint numbers and officer assessments.

2.41 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 June and July are uploaded as Appendix 3 (A) and (B) respectively. The data for August will be uploaded in the next report to Cabinet.

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 2024 there is a £300k reserve for works associated with Walleys Quarry Landfill site. Should further funding be required, up to £300k can be made available through the transfer of useable reserves (£100k from the Borough Growth Fund and £200k from the Budget and Borrowing Support Fund). These funds can be transferred without Council approval.

8.3 Should proceedings regarding the breach of the Council's Abatement Notice exceed £600k, a further report will be presented to Council in order to seek approval to utilise funds from the General Fund Reserve.

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;

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

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

12. Earlier Cabinet/Committee Resolutions

12.1 This matter has been variously considered previously by Economy, Environment & Place Scrutiny Committee, Council and Cabinet on 21 April 2021, 9th June 2021, 7th July 2021, 21st July 2021, 8th September 2021, 13th October 2021, 3rd November 2021, 17th November, 1st December 2021, 12th January 2022, 2nd February 2022, 23rd February 2022, 23rd March 2022, 20th April 2022, 7th June 2022, 19th July 2022, 6th September 2022, 18th October 2022, 8th November 2022, 6th December 2022, 10th January 2023, 7th February 2023, 13th March 2023, 5th April 2023, 6th June 2023, 18th July 2023, 19th September 2023, 17th October 2023, 7th November 2023, 5th December 2023, 16th January 2024, 6th February 2024, 14th February 2024, 19th March 2024, 10th April 2024, 4th June 2024, and 16th July 2024.

13. List of Appendices

- 13.1 Appendix 1. Historical Complaint data
- 13.2 Appendix 2. NULBC Key Performance Data
- 13.3 Appendix 3. WQL Key Performance Data
- 13.4 Appendix 4. Percentage exceedance above WHO odour annoyance guideline