

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**CORPORATE LEADERSHIP TEAM'S**

**REPORT TO CABINET**

**04 February 2025**

**Report Title:** Walleys Quarry – Odour Issues

**Submitted by:** Chief Executive

**Portfolios:** Sustainable Environment; One Council, People & Partnerships

**Ward(s) affected:** All

<b><u>Purpose of the Report</u></b>	<b><u>Key Decision Yes</u></b> <input type="checkbox"/> <b><u>No</u></b> <input checked="" type="checkbox"/>
To update Cabinet on the latest position regarding the problematic odours in the Borough associated with Walleys Quarry.	
<b><u>Recommendation</u></b>	
Cabinet is recommended to:	
1. <b>Note the contents of this update report.</b>	
<b><u>Reasons</u></b>	
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 Members and Officers have attended Liaison Meetings to maintain contact 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 for the last 3 months, reported on a weekly basis. Historical complaint data is attached to this report as Appendix 1.

	Complaints to NuLBC	Complaints to Environment Agency
<b>November 2024</b>		
28/10/24 - 03/11/24	46	163
04/11/24 - 10/11/24	41	153
11/11/24 - 17/11/24	251	793
18/11/24 - 24/11/24	252	842
25/11/24 - 01/12/24	518	1478
<b>December 2024</b>		
02/12/24 - 08/12/24	261	760
09/12/24 - 15/12/24	182	518
16/12/24 - 22/12/24	220	797
23/12/24 - 29/12/24	418	1644
<b>January 2025</b>		
30/12/24 - 05/01/25	303	1315
06/01/25 - 12/01/25	894	3878
13/01/25 - 19/01/25	283	803
20/01/25 - 26/01/25	109	470
27/01/25 - 02/02/25	65*	

\*Figure may alter due to backdated complaints received

- 2.2 The number of odour events (where 10 or more complaints have been reported) was 24 in the month of January compared to 26 odour events reported in the month of December:
- Wednesday 01 January – Friday 17 January 2025
  - Monday 20 January – Thursday 23 January 2025
  - Saturday 25 January 2025
  - Wednesday 29 January – Thursday 30 January 2025

- 2.3 There were 17 consecutive days where the community reported 10 or more odour complaints from 1 January to 17 January.
- 2.4 The highest number of odour complaints was reported on 10 January with 379 complaints with a monthly total 1616 complaints. The second highest number of complaints was reported on 11 January at 185 complaints.
- 2.5 The total number of odour complaints in January exceeded those reported in November and December 2024. Complaints at above 1600 have not been seen since July 2021.

### **NULBC Odour Assessments**

- 2.6 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 January, 3 odour assessments (5-minute) were undertaken on 10 January, 17 January and 23 January, all of which recorded an intensity rating of 5 (very strong).

In January, 59 spot assessments were undertaken of which 40 detected landfill related odour ranging from an intensity rating of 2 (slight/weak) to 5 (very strong).

### **NULBC Mobile Air Quality Monitoring (using Jerome monitor)**

- 2.7 Officers have monitored the levels of hydrogen sulphide within the community using the mobile Jerome monitor. The highest level of hydrogen sulphide [H<sub>2</sub>S] recorded in the community was 67.91ppb on 20 January 2025 at 08:33.

### **NULBC Actions**

- 2.8 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 any formal legal action it is necessary for the Council to formulate a view with regard to this matter, this is ongoing.
- 2.9 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.
- 2.10 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, confirming that he would grant consent for the prosecution to proceed.

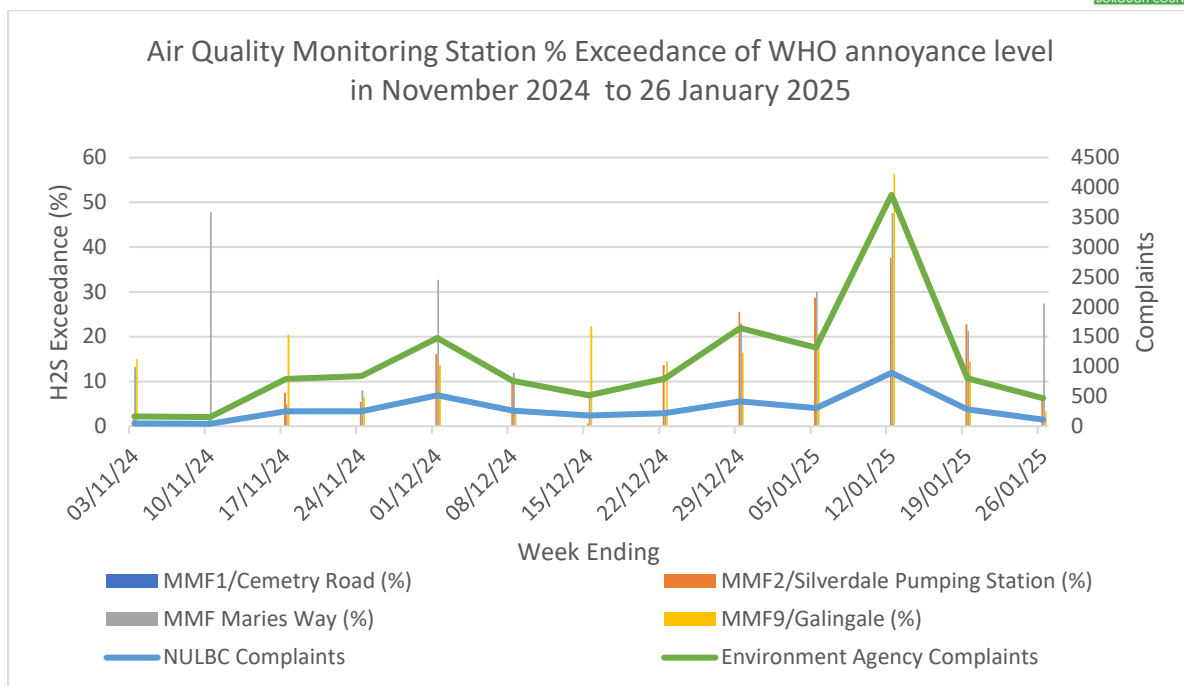
- 2.11 As reported in the previous Cabinet report the EA served a closure notice on Walleys Quarry Ltd on 28 November 2024. Walleys Quarry Limited subsequently submitted an appeal against the closure notice on 6 December.
- 2.12 The Council sought legal advice and subsequently submitted a written representation as an ‘interested party’ to the Planning Inspectorate on 13 January 2025.
- 2.13 The Council requested that the Planning Inspectorate considered the Council as a ‘principal party’ in the inquiry. If the Planning Inspectorate agrees to the request this potentially enables the Council to be a main party in the inquiry in the same way as the EA and WQL.
- 2.14 Cabinet will be informed of the decision by the Planning Inspectorate in due course.

### Air Quality

- 2.15 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).
- 2.16 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/m<sup>3</sup>. Historic data is available in Appendix 2.

Time Period	MMF Maries Way (%)	MMF Silverdale Pumping Station (%)	MMF Galinagle View (%)
04 November - 10 November 2024	47.9	2.1	0.3
11 November - 17 November 2024	4.8	7.49	20.4
18 November - 24 November 2024	8.0	5.4	6.5
25 November - 1 December 2024	32.7	16.1	13.7
2 December - 8 December 2024	11.9	10.3	3.9
9 December - 15 December 2024	7.1	0.6	22.3
16 December - 22 December 2024	3.3	13.6	14.5
23 December - 29 December 2024	22.9	25.6	16.4
30 December - 05 January 2025	30.0	28.7	20.7
06 January - 12 January 2025	47.6	37.6	56.4
13 January - 19 January 2025	21.3	22.8	14.4
20 January - 26 January 2025	27.4	6.3	3.3

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



### Environment Agency Regulatory and Enforcement Action

- 2.18** The Environment Agency has continued to provide updates on its regulatory activity on the Walleys Quarry Landfill and can be accessed here: <https://engageenvironmentagency.uk.engagementhq.com/hub-page/walleys-quarry-landfill>
- 2.19** The following Compliance and Assessment Reports have been published on the EA website since the previous Cabinet report(s):

Date of Report	Date issued	CAR reference	Assessment	Compliance Score
02/10/24	29/10/24	DP3734DC/0524572	Procedure Review – announced site inspection	31
15/10/24	30/10/24	DP3734DC/0524588	Site inspection - unannounced	4
24/10/24	30/10/24	DP3734DC/0524854	Site inspection - unannounced	0
31/10/24	14/11/24	DP3734DC/0526931	Site inspection - announced	0
07/11/24	07/11/24	DP3734DC/0525992	Report/data review Decommissioning Leachate Well LS7 methodology	0
13/11/24	06/12/24	DP3734DC/0528654	Site inspection - unannounced	0
27/11/24	11/12/24	DP3734DC/0531324	Site inspection - unannounced	4
03/12/24	03/12/24	DP3734DC/0498087	Procedure review Landfill Gas Management Plan revision 3.10	0
09/12/24	09/12/24	DP3734DC/0530957	Report/data review Leachate Pumping trials – recovery test report	0

## Non-Compliance identified in Compliance and Assessment Reports

### 2.20 Compliance Assessment Report dated 2 October 2024 – 31 CCS points

Non-compliances

C2 General Management – Management System & Operating Procedures - Permit Condition 2.4.1

You have been scored a category 2 non-compliance (31 CCS points), because you have not operated the activities, namely disposal of waste, using the techniques and in the manner described in the documentation specified in Schedule 1, table S1, as you have failed to:

1. Refuse to accept malodourous waste;
2. Remove areas of leachate ponding, which had increased in size since 16 September 2024;
3. Repair and/or replace the malfunctioning leachate pump;
4. Notify and agree with the Environment Agency proposed remedial action in relation to the leachate pump and a timetable for completion as the repair had not been completed within 2 working days.

These are remedial measures for non-conformances which are specified in the Approved OMP, which is a specified operating techniques document, and the Environment Agency has not agreed a different operating techniques document in writing.

This is a non-compliance which could have a significant effect on quality of life if not addressed promptly and adequately. You have identified waste and leachate as potential odour sources but failed to take the measures that you have identified to remediate odour non-conformances and mitigate odour pollution. Fugitive odorous emissions to air are likely to cause offence to local residents' sense of smell and impair or interfere with amenities or other legitimate uses of the environment. There are people living and working within 975 metres of the site perimeter, with some individuals as close as 125 metres.

**Action DP3734DC/0524572:** Remove any areas of leachate ponding.

**Deadline:** 08 November 2024.

### Compliance Assessment Report dated 15 October 2024

**Non-compliances B1 Infrastructure – Engineering for prevention & control of pollution - Permit Condition 2.5.6.**

You have been scored a category 3 non-compliance (4 CCS points), because permanent capping works (Phase 2b) did not take place in accordance with the approved construction proposals, specifically sections 3.3.2, 3.4.1, 3.4.2 and 4.6.1 of the CQA Plan. The change to the approved construction proposal, namely the presence of unsuitable materials in the subgrade which have the potential to damage the overlying geosynthetic materials, is likely to have an adverse impact on the performance of the geomembrane layer. In any event, the Environment Agency did not agree any change to the approved construction proposals. The agreed construction standards have been designed to control landfill gas emissions effectively. This is a non-compliance which could have a minor effect on quality of life if it were not addressed promptly and adequately, due to an increased risk of odorous gas emissions escaping beyond the site boundary causing offence to residents' sense of smell, and along with those who work nearby.



**Action DP3734DC/0524588:** Construct landfill infrastructure in accordance with approved construction proposals.

As construction had already taken place at the time of the inspection, it is not possible for the Environment Agency to require retrospective action. However, the following information should be provided to the Environment Agency to confirm that appropriate action has been taken to address the non-conformances with the CQA plan identified on 15 October 2024, and to prevent future recurrence:

- a. details of checks and approval by the CQA Inspector in respect of the subgrade suitability and authorised deployment of the overlying geosynthetics prior to 15 October 2024.
- b. if no such approval was given, why AJS was allowed to deploy geosynthetic materials contrary to the requirements of the CQA Plan; and
- c. the measures that will be put in place to prevent work which does not meet the requirements of the CQA plan from going ahead; and
- d. copies of the CQA Inspector's daily logs, surface (regulating layer) release forms and geotextile and geomembrane 'pro-forma' information from the date of the installation of the subgrade in the northern extent of Phase 2b capping works, up to and including 15 October 2024

**Deadline:** 15 November 2024

## 2.21 Compliance Assessment Report dated 15 October 2024 – 4 CCS points

Non-compliances

B1 Infrastructure – Engineering for prevention & control of pollution - Permit Condition 2.5.6.

You have been scored a category 3 non-compliance (4 CCS points), because permanent capping works (Phase 2b) did not take place in accordance with the approved construction proposals, specifically sections 3.3.2, 3.4.1, 3.4.2 and 4.6.1 of the CQA Plan.

The change to the approved construction proposal, namely the presence of unsuitable materials in the subgrade which have the potential to damage the overlying geosynthetic materials, is likely to have an adverse impact on the performance of the geomembrane layer. In any event, the Environment Agency did not agree any change to the approved construction proposals.

The agreed construction standards have been designed to control landfill gas emissions effectively. This is a non-compliance which could have a minor effect on quality of life if it were not addressed promptly and adequately, due to an increased risk of odorous gas emissions escaping beyond the site boundary causing offence to residents' sense of smell, and along with those who work nearby.

**Action DP3734DC/0524588:** Construct landfill infrastructure in accordance with approved construction proposals.

As construction had already taken place at the time of the inspection, it is not possible for the Environment Agency to require retrospective action. However, the following information should be provided to the Environment Agency to confirm that appropriate action has been taken to address the non-conformances with the CQA plan identified on 15 October 2024, and to prevent future recurrence:

- a. details of checks and approval by the CQA Inspector in respect of the subgrade suitability and authorised deployment of the overlying geosynthetics prior to 15 October 2024.
- b. if no such approval was given, why AJS was allowed to deploy geosynthetic materials contrary to the requirements of the CQA Plan; and

c. the measures that will be put in place to prevent work which does not meet the requirements of the CQA plan from going ahead; and  
d. copies of the CQA Inspector's daily logs, surface (regulating layer) release forms and geotextile and geomembrane 'pro-forma' information from the date of the installation of the subgrade in the northern extent of Phase 2b capping works, up to and including 15 October 2024

**Deadline:** 15 November 2024

## 2.22 Compliance Assessment Report dated 27 November 2024 – 4 CCS

Non-compliances

You have been scored a category 3 non-compliance (4 CCS points), because placement of geomembrane restoration soils on the permanent capping works (Phase 2b) did not take place in accordance with the approved construction proposals (specified in Capping and Restoration works – CQA plan, rev D, April 2022), specifically sections 7.3.3. and 7.3.5 of the CQA Plan.

The change to the approved construction proposals, namely:

1. the lack of any CQA supervision; and
2. the failure to maintain the minimum thickness of 1000mm of material at any location between the capping system and wheel plant/vehicles', is likely to have an adverse impact on the performance of the geomembrane layer. In any event, the Environment Agency did not agree any change to the approved construction proposals.

The agreed construction standards have been designed to control landfill gas emissions effectively and are one of the procedures that you have in place to mitigate pollution. You have failed to take these appropriate measures. This is a non-compliance which could have a minor effect on quality of life if it were not addressed promptly and adequately, due to an increased risk of odorous gas emissions escaping beyond the site boundary causing offence to residents' sense of smell, along with those who work nearby.

**Action DP3734DC/0531324:** Construct all landfill infrastructure in accordance with the approved construction proposals.

As construction had already taken place at the time of the inspection, it is not possible for the Environment Agency to require retrospective action. However, the following information should be provided to the Environment Agency to confirm that appropriate action has been taken to address the non-conformances with the CQA plan identified on 27 November 2024, and to prevent future recurrence:

1. Confirmation that the soil material has been carefully inspected to verify its suitability.
2. Confirmation that any damage that has occurred to the geomembrane cap as a result of the non-confirming works had been rectified.
3. An explanation of why WQL deployed the restoration soils contrary to the requirements of the CQA Plan.
4. A list of the measures that will be put in place to prevent work which does not meet the requirements of the CQA plan from going ahead again.

**Deadline:** by 18 December 2024. The information shall also be recorded appropriately in the CQA report, when it is submitted.

## UK Health Security Agency [UKHSA] Interim Risk assessment

2.23 On 16 January, the EA published on 'Latest news' on their engagement website:



'The data recorded by our Mobile Monitoring Facilities (MMF's) and the volume of odour reports we received over the last week, reflect an unacceptable level of odour emissions from Walleys Quarry Landfill. We know that this has impacted many within the community and we have every sympathy with those who have been affected.

The Closure Notice, which we issued on 28 November 2024 (The Notice), does not alter Walleys Quarry Ltd's (WQL) obligations to comply with its permit conditions. The company remains responsible for maintaining active pollution control measures. We have informed WQL that it must work at pace to address the sources of the landfill gas and ensure that it is using appropriate measures to capture, contain and destroy the gas.

Since the beginning of January 2025, officers have been on site weekly and will continue to carry out regular inspections to ensure that WQL is making progress to complete the series of steps required by the Notice. As we have previously informed you (see 3 January 2025 update), we expect the odour outside the site to reduce as the additional gas infrastructure and capping required by the Notice are completed. The deadlines in the Notice are challenging but reasonable, based on the work which needs to be done. The capping work is due to be completed by 31 January 2025.

The significant levels of emissions outside the site have been intensified by the recent period of cold, still weather, which leads to poor dispersion conditions that will magnify the impacts on the community.

In recognition of this impact, and in particular the conditions between 9 and 11 January 2025, we have shared the raw MMF data that we have for the period up to 12 January 2025 with the UK Health Security Agency (UKHSA) so that they could undertake an interim risk assessment. It is important to note that this data is based on indicative and incomplete raw data.

UKHSA has produced an interim risk assessment which can be viewed [here](#) and released the following statement

*UKHSA is aware that residents living near Walleys Quarry Landfill have experienced increased odour pollution from the site throughout December, continuing into January.*

*The air quality data supplied by the Environment Agency (EA), for our December risk assessment, shows that hydrogen sulphide levels over the Christmas period were substantially above the World Health Organization (WHO) odour annoyance guideline level, with continual periodic high spikes of emissions throughout this time. This is consistent with the increase in local complaints sent to the EA and local authority.*

*UKHSA felt it was important to carry out an interim risk assessment, due to increasing levels of odour pollution complaints, along with further raw data being received for early January, showing hydrogen sulphide levels periodically exceeding the WHO short-term health guideline value.*

*The assessment is that while the risk to long-term health is still likely to be small, there is an increased likelihood that some residents could experience short-term health impacts affecting breathing, irritation of the eyes, nose and mouth. These effects should be transient (reduce if exposure declines) however, these higher exposures may exacerbate pre-existing chronic lung conditions.*

*Anyone with health concerns or symptoms should contact NHS 111 or their local GP'.*

- 2.24** The UK Health Security Agency Health Risk Assessment of interim air quality monitoring results from 6 to 12 January 2025: Walleys Quarry Landfill Site, Silverdale Newcastle-under-Lyme is provided in full in Appendix 4.

### Closure Notice

- 2.25** On 28 November 2024, the Environment Agency issued a Closure Notice to Walleys Quarry Ltd (WQL).
- 2.26** The Schedule to the Closure Notice requires WQL to comply with steps to initiate closure. The steps specified in the Schedule are summarised in the table below:

<b>Schedule 2</b>	<b>Timescale</b>	<b>Steps</b>
Stage 1 Step 1	<b>From 00:01 on 29 November 2024</b>	Cease accepting waste and do not recommence the acceptance of waste for disposal or recovery at the landfill
Stage 1 Step 2	<b>By 13 December 2024</b>	Construct bench-like horizontal platforms within the waste flanks on the uncapped former active tipping (operational) areas to facilitate access, maintenance and monitoring for the installation of gas control infrastructure (gas wells and connecting pipelines).
Stage 1 Step 3		Any waste left exposed following construction of bench like horizontal platforms in the former active area tipping (operational) areas shall be covered with non-waste material by the end of each working day.
Stage 1 Step 4	<b>By 24 December 2024</b>	Install permanent gas extraction wells as set out in Walleys Next Phase Gas Infrastructure Design 18.11.2024 reference CLP3573 and in those former active tipping (operational) areas without gas extraction, in accordance with the design and specification set out in the LGMP
Stage 1 Step 5		Connect all installed gas extraction infrastructure to the operational gas control system and place it under extraction. This shall occur no later than the end of the day of installation of the specific infrastructure
Stage 1 Step 6	<b>By 31 January 2025</b>	Install temporary geomembrane capping to any uncapped part of the former active tipping area of the landfill. Once installed, the capping shall alleviate gas emissions so that they do not exceed 50 parts per million (ppm) methane.
Stage 1 Step 7		Collect and remove surface water run-off from capped areas in accordance with Temporary Surface Water Management Layout, drawing ECL. 9311.D05.001 Rec C dated 10.07.2024. Any contaminated surface water shall either be removed from site or treated via leachate treatment plant.
Stage 1 Step 8	<b>By 7 February 2025</b>	A surface gas emissions survey shall be undertaken in accordance with LFTGN07 v2 2010 Guidance on monitoring landfill gas surface emissions

Stage 1 Step 9	<b>By 14 February 2025</b>	Submit a report to the EA demonstrating that emissions of methane do not exceed 50 parts per million (ppm) methane.
Stage 1 Step 10	<b>From 14 February 2025</b>	Conduct surface gas emission surveys every four weeks until the permanent cap is installed to ensure that the temporary cap is alleviating methane emissions to below 50ppm.
Stage 1 Step 11	<b>No later than 7 days after each survey carried out in accordance with Step 10 above</b>	Submit a report to the EA demonstrating that emissions of methane do not exceed 50ppm methane
Stage 1 Step 12	<b>Within 24 hours</b> from detection	Repair any defects or leaks in the cap giving rise to methane emissions greater than 50ppm methane
Stage 1 Step 13	<b>By 28 February 2025</b>	Provide the EA with a Landfill Closure and Aftercare Plan [Refer to the Closure Notice for the relevant sector guidance]
Stage 2 Step 1	<b>By 30 May 2025 or such date agreed in writing by the EA</b>	Provide the EA with a closure report which specifies how closure has been achieved and how the activities at the site will be managed, monitored and maintained during the aftercare phase. [Refer to Closure Notice for the relevant sector guidance]

### Appeal against Closure Notice

2.27 Cabinet will be updated on the date(s) of the inquiry in due course.

### Walleys Quarry update

2.28 No further information updates have been provided by Walleys Quarry Ltd since 02 January 2025.

### Impact Study

2.29 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.

2.30 The Health and Care Overview and Scrutiny Committee at Staffordshire County Council considered the report at its meeting on 2 December 2024.

2.31 The minutes are now available and are linked [here](#). The Committee endorses the recommendations within the Arcadis report and agreed that the Arcadis report be shared with the Secretary of State for Health and Social Care.

### Key Performance Data

2.32 Through the settlement agreement both Walleys Quarry Ltd and the Council have developed key performance indicators in relation to relevant data from each organisation. The key performance indicator for NuLBC is shown in Appendix 3.

**2.33** The data from the Council covers the period from November 2024 to January 2025 and provides complaint numbers and officer assessments.

**2.34** 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 from September onwards has not been submitted by the operator.

### **3. Recommendation**

#### **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 On 20 November 2024 Council approved the sum of £400k (£250k from the General Fund Reserve, £150k from the Budget and Borrowing Support Fund) for costs associated with action to prosecute, and delegate to the Chief Executive and Section 151 Officer, in consultation with the Portfolio Holders for One Council, People and Performance and Town Centres and Finance, to draw down and remit such funds as are necessary for this action.

## **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. One Council

11.1 Please confirm that consideration has been given to the following programmes of work:

One Commercial Council

One Digital Council

The Council will use all available monitoring data and digital tools in making strategic and operational decisions in relation to Walleys Quarry.

One Green Council

The Council is not a user of Walleys Quarry. Within its restricted powers, the Council is committed to ensuring that waste does not cause a nuisance for residents and ultimately wishes to see the end of landfill, with a site that is successful closed, capped off and restored.

## 12. Key Decision Information

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

## 13. Earlier Cabinet/Committee Resolutions

13.1 This matter has been variously considered previously by Economy, Environment & Place Scrutiny Committee, Council and Cabinet on 21 April 2021, 9<sup>th</sup> June 2021, 7<sup>th</sup> July 2021, 21<sup>st</sup> July 2021, 8<sup>th</sup> September 2021, 13<sup>th</sup> October 2021, 3<sup>rd</sup> November 2021, 17<sup>th</sup> November, 1<sup>st</sup> December 2021, 12<sup>th</sup> January 2022, 2<sup>nd</sup> February 2022, 23<sup>rd</sup> February 2022, 23<sup>rd</sup> March 2022, 20<sup>th</sup> April 2022, 7<sup>th</sup> June 2022, 19<sup>th</sup> July 2022, 6<sup>th</sup> September 2022, 18<sup>th</sup> October 2022, 8<sup>th</sup> November 2022, 6<sup>th</sup> December 2022, 10<sup>th</sup> January 2023, 7<sup>th</sup> February 2023, 13<sup>th</sup> March 2023, 5<sup>th</sup> April 2023, 6<sup>th</sup> June 2023, 18<sup>th</sup> July 2023, 19<sup>th</sup> September 2023, 17<sup>th</sup> October 2023, 7<sup>th</sup> November 2023, 5<sup>th</sup> December 2023, 16<sup>th</sup> January 2024, 6<sup>th</sup> February 2024, 14<sup>th</sup> February 2024, 19<sup>th</sup> March 2024, 10<sup>th</sup> April 2024, 4<sup>th</sup> June 2024, 16<sup>th</sup> July 2024, 10<sup>th</sup> September 2024, 25<sup>th</sup> September 2024, 15<sup>th</sup> October 2024, 5<sup>th</sup> November 2024, 25<sup>th</sup> November 2024. 3<sup>rd</sup> December 2024, 9<sup>th</sup> January 2025.

## 14. List of Appendices

14.1 Appendix 1. Historical Complaint data

14.2 Appendix 2. Percentage exceedance above WHO odour annoyance guideline



**14.3** Appendix 3. NULBC Key Performance Data

**14.4** Appendix 4. UKHSA Health Risk Assessment of interim air quality monitoring results from 6 to 12 January 2025