

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

CORPORATE LEADERSHIP TEAM'S

REPORT TO CABINET

06 May 2025

Report Title: Walleys Quarry – Odour Issues

Submitted by: Chief Executive

Portfolios: Sustainable Environment; One Council, People & Partnerships

Ward(s) affected: All

Purpose of the Report

Key Decision Yes ☐ No ☒

To update Cabinet on the latest position regarding the problematic odours in the Borough associated with Walleys Quarry.

Recommendation

Cabinet is recommended to:

1. **Note the contents of this update report.**

Reasons

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 which has, until its liquidation been operated by Walleys Quarry Ltd. The Environment Agency (EA) is the lead regulator for permitted landfill 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 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/environmental-health-enforcement-policy). 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.
- 1.6 The Council continues to assess the prevalence of odours off site.

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
February 2025		
03/02/25 - 9/02/25	47	221
10/02/25 - 16/02/25	8	39
17/02/25 - 23/02/25	6	26
24/02/25 - 02/03/25	19	65
March 2025		
03/03/25 - 09/03/25	7	42
10/03/25 - 16/03/25	14	47
17/03/25 - 23/03/25	4	26
24/03/25 - 30/03/25	5	21
April 2025		
31/03/25 - 6/04/25	0	25
7/04/25 - 13/04/25	15	27
14/04/25 - 20/04/25	5	8
21/04/25 - 27/04/25	1*	Awaiting data

*Figure may alter due to backdated complaints received

2.2 March 2025

- There were no 'odour events' (where 10 or more complaints have been reported) during the month of March.
- The highest number of odour complaints was on Saturday 01 March with 7 complaints.
- The total number of odour complaints in March was 41 complaints

April 2025

- There were no 'odour events' (where 10 or more complaints have been reported) during the month of April.
- The highest number of odour complaints was on Thursday 10 April with 4 complaints.
- The total number of odour complaints in April was 23 complaints

The number of odour complaints continue to trend downwards. There has been a dramatic decline since the peak at the beginning of the year (January) at 1620 complaints.

NULBC Odour Assessments

- 2.3** 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.

March 2025

In March, 24 spot assessments were undertaken of which 4 detected landfill related odour all with an intensity rating of 3 (distinct).

April 2025

In April, 13 spot assessments were undertaken of which 2 identified odour at a rating of 3, which were by the site entrance on Cemetery Road. The remaining did not detect landfill odour.

NULBC Mobile Air Quality Monitoring (using Jerome monitor)

- 2.4** Hydrogen sulphide monitoring has been undertaken by Officers during March and April. The highest reading was 3.62ppb, measured by the site entrance on Cemetery Road.

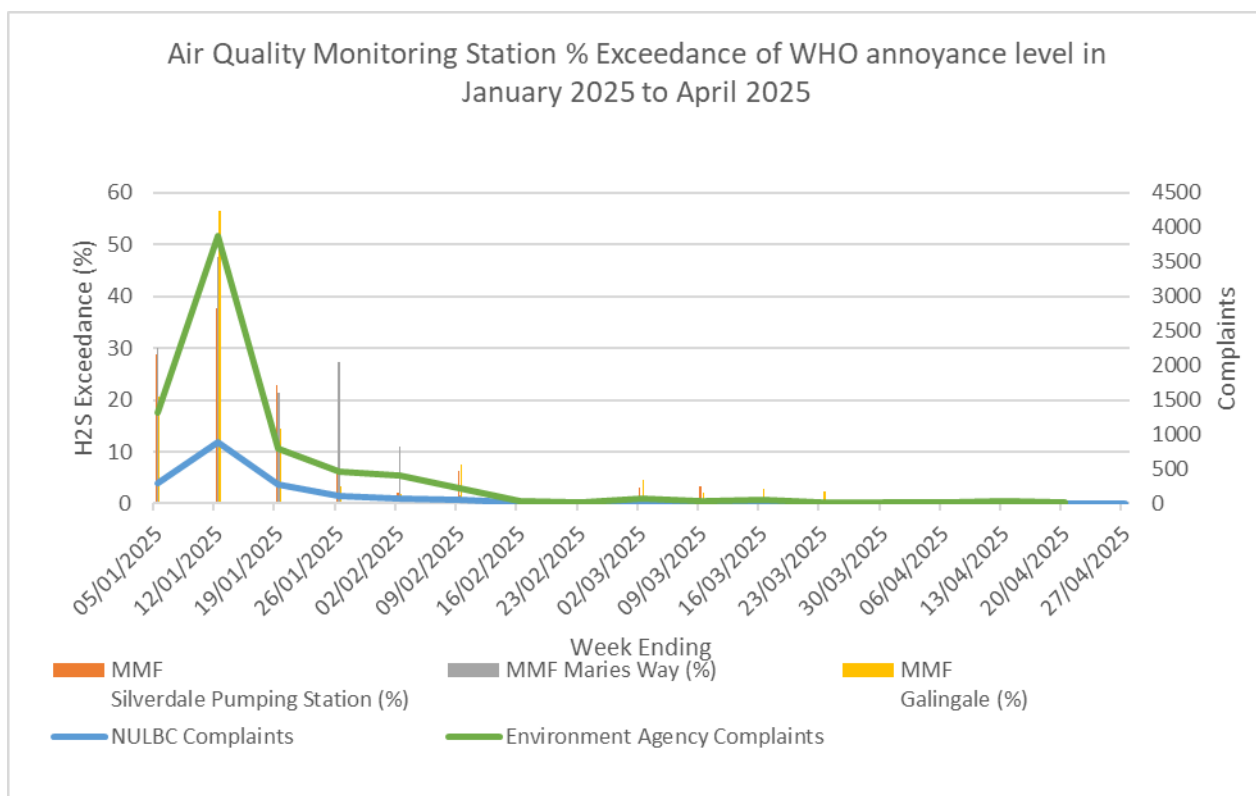
Air Quality

- 2.5** 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).
- 2.6** The EA air quality data has been published for March 2025 and shows the maximum level of H₂S recorded at each station has either remained the same or reduced. As an example the maximum H₂S at MMF Galingale View reduced from 922.93ug/m³ (January) to 47.51 ug/m³ (February) and to 22.14ug/m³ (March)

- 2.7** 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 2.

Time Period	MMF Maries Way (%)	MMF Silverdale Pumping Station (%)	MMF Galingale View (%)
03 February - 09 February 2025	1.6	6.3	7.6
10 February - 16 February 2025	0.0	0.0	0.0
17 February - 23 February 2025	0.0	0.3	0.0
24 February - 02 March 2025	0.0	3.0	4.5
03 March - 09 March 2025	0.0	3.3	2.1
10 March -16 March 2025	0.0	0.9	2.9
17 March - 23 March 2025	0.3	0.6	2.4
24 March - 30 March 2025	0.0	0.0	0.0
31 March - 6 April 2025	0.0	0.0	0.0
7 April - 13 April 2025	0.0	0.0	0.0
14 April – 20 April 2025	0.0	0.0	0.0
21 April – 27 April 2025	0.0	0.0	0.0

- 2.8** 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

2.9 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>

2.10 The following Compliance and Assessment Reports have been published on the EA website since the previous Cabinet report.

Date of Report	Date issued	CAR Reference	Assessment	CCS score
30/06/24	29/11/24	DP3734DC/0523022	2024 Q2 Monitoring Data Review (April-June)	12.2
13/12/24	19/12/24	DP3734DC/0532311	Site inspection - unannounced	0
20/12/24	24/12/24	DP3734DC/0534032	Site inspection - announced	31
06/01/25	16/01/25	DP3734DC/0535764	Site inspection – announced	31
14/01/25	17/01/25	DP3734DC/05368-6	Site inspection - announced	0
20/01/25	27/01/25	DP3734DC/0536806	Site inspection - announced	0
23/01/25	05/02/25	DP3734DC/0539277	Site inspection - announced	0
29/01/25	07/02/25	DP3734DC/0539283	Site inspection - announced	0
03/02/25	12/02/25	DP3734DC/0539285	Site inspection - announced	0
06/02/25	06/02/25	DP374DC/0539749	Report/ data review – Cell 4 Upper Sidewall (2024 engineering works) CQA report (No.2)	0
10/02/25	20/02/25	DP374DC/0542791	Site inspection - announced	31
14/02/25	14/02/25	DP374DC/0541509	Report/data review- Temporary capping assessment report 2024 Q3	0
19/02/25	24/02/25	DP3734DC/0543056	Site inspection – announced	0
26/02/25	26/02/25	DP373DC/0543724	Report/data review – Temporary Capping Assessment Report 2024 Q4	0

Non- compliance

The table below provides links to the Compliance Assessment Reports that have a non-compliance score:

Date of report	CAR Reference	CCS score	Non - compliance	Potential Impact on the environment and/or quality of life
30/06/24	DP3734DC-0523022	12.2	Breaches of the permit condition for: leachate level limits, methane limit, carbon dioxide limit and ammoniacal nitrogen limit Failure to immediately inform the EA of the breaches	Minor
20/12/24	DP3734DC-0534032	31	'Officers perceived odour from emissions of landfill gas at levels likely to cause pollution outside the site from activities namely (previous) disposal of waste, and you have not used appropriate measures specified in your approved odour management plan to prevent or where that is not practicable to minimise the odour'.	Significant
06/01/25	DP3734DC-0535764	31	'not operated the activities, namely the disposal of waste, using the techniques and in the manner described in the OMP and no other odour management plan has been agreed in writing. Specifically, elevated emissions of landfill gas in the accumulated liquid at the base of the western facing flank are abnormal conditions / an incident which has the potential to lead to an odour event and you have not: 1. brought forward planned capping works to reduce odour potential from this area; and 2. removed the area of leachate ponding in this location within 2 working days or within a timetable agreed with the Environment Agency.'	Significant
10/02/25	DP3734DC-0542791	31	'you have not carried out the activities, namely the disposal of waste, using the techniques and in the manner described in the Working Plan, a document specified in schedule 1 table S1.2.	Significant

			<p>(i) Whilst infilling the landfill, you have allowed groundwater to rise above the base, rather than maintaining it at a level below the base, of the landfill; and</p> <p>(ii) At no point has the Environment Agency provided written agreement to such a rise in groundwater level'</p>	
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Closure Notice

- 2.11** On 28 November 2024, the Environment Agency issued a Closure Notice to Walleys Quarry Ltd (WQL).

Walleys Quarry Limited – Appeal against Closure Notice

- 2.12** The Environment Agency and NULBC have received confirmation that the appeal against the Closure Notice has been withdrawn.
- 2.13** Consequently, the appeal is closed and withdrawn, and the Planning Inspector will take no further action in this case.

Walleys Quarry Limited - Application for judicial review and application for interim relief

- 2.14** Walleys Quarry Ltd were unsuccessful in an application for judicial review and an application for interim relief for a stay in the Closure Notice. The judgement was given on 4 February 2025.

Walleys Quarry Limited – Voluntary Liquidation [28 February 2025]

Frequently Asked Questions

- 2.15** The Environment Agency updated their Frequently Asked Questions document on 19 March 2025 and added the following additional questions:

Q: Who is now responsible for the site?

A: The Liquidators for Walleys Quarry Ltd have disclaimed the site. Following disclaimer the property is subject to 'escheat', a legal process under which it falls to be dealt with by the Crown Estate. You can read more about escheat here: [FAQs | The Crown Estate](#). In practice the Crown Estate does not take any action which might be construed as an act of management, possession or ownership - the Crown Estate does not act as guarantor of last resort for companies and individuals who have failed financially. The Environment Agency is not responsible for the site but is arranging for steps to be taken there under its discretionary powers.

Q: What work is the Environment Agency undertaking on site and why?

A: The Environment Agency is using its discretionary powers to arrange for steps to be taken on site to remove a risk of serious pollution. These steps include:

- Securing the site to prevent access by trespassers, who could damage the infrastructure necessary to manage emissions.
- Installing temporary capping, to a small area of previously deposited waste. This was required by the Closure Notice, but was not completed by Walleys Quarry Ltd. The area is in the same location where bubbling liquid can be seen on recent drone footage. The liquid will be removed by tankers to allow this work to take place.
- Remedial work to improve the stability of waste near the western flank. There has been some localised slippage, and this work will help protect the integrity of capping in that area.
- A review of current arrangements and, subject to that, possible alterations to ensure that the surface water is managed effectively.
- Actions to manage the groundwater under the site and leachate levels within the capped area, to avoid harm to the integrity of the landfill containment system.

Q: What powers are the Environment Agency using to go on site to carry out work?

A: The Environment Agency is using its limited, discretionary powers under Regulation 57 of the Environmental Permitting Regulations to arrange for steps to be taken to remove a risk of serious pollution.

Q. Who is paying for the work?

A; The current work being undertaken at the site is being funded by the financial provision that Walleys Quarry Ltd provided in accordance with its environmental permit.

Q: Why is the EA doing this work rather than Walleys Quarry Ltd or the landowner?

A: Because Walleys Quarry Ltd has ceased operations, has entered liquidation and the Liquidators appointed have disclaimed the permits held by Walleys Quarry Ltd, and title to the landfill site.

The EA has discretionary powers under Regulation 57 EPR to arrange for steps to be taken to remove a risk of serious pollution. The Environment Agency is able to use the financial provision provided by WQL in accordance with its environmental permit to fund these steps.

Q: Who is CLP Envirogas Limited (CLP)? What is its role?

A; CLP is the gas contractor at Walleys Quarry. It is a separate company from Walleys Quarry Ltd. CLP's role is landfill gas management, including operating the gas engines that produce power for the electricity grid from the landfill gas extracted from the site. CLP continues to look after the gas management system for the site

Virtual Public Meeting – 20 March 2025

- 2.16 A virtual public meeting was held by the EA on 20 March 2024. The transcript has been shared on the Engagement HQ site – [20 March 2025 Public Transcript](#).

Progress with onsite works

2.17 The EA have published the following updates:

2.18 Latest News 01/04/24

‘As part of the steps we have arranged at Walleys Quarry to remove the risk of serious pollution, our contractors have begun removing surface water accumulated in the void area adjacent to the western flank of the site, where there have also been signs of slippage under the capping.

Our contractors have made a small slit in the capping, which was identified as having been stretched more than we had anticipated. This is to facilitate drainage of the leachate that had built up behind it. The drainage is likely to last several days. The leachate will be disposed of off-site appropriately. These works may lead to a temporary increase in odour around the site.

This week (week commencing 31 March 2025) our contractors will continue work in the void area. You may see additional machinery and materials arriving on site.

You may see Staffordshire Fire and Rescue Service (Staffs FRS) vehicles arriving at the site on today (Tuesday 1 April). This is part of a routine, planned visit. The vehicles will be present so that Staffs FRS officers are able to respond immediately to any off-site calls they may receive’

2.19 Latest News 15/04/25

‘Further to our update on 1 April 2025, the work we told you about is progressing well.

Contractors are working to manage the small amount of liquid which continues to accumulate in the western void at the site. Moving excavated waste may cause a temporary increase in odours from the landfill which our contractors are managing.

Clay material will be imported and used in the void, with additional measures planned to mitigate leachate migration and potential groundwater ingress.

After work in the void has been completed, steps will be taken to remedy capping defects elsewhere. This will begin with creation of an access track, for machinery, over the western flank of the landfill.

There will be a short pause in activity at the site over the Easter weekend’.

2.20 Latest News 23/04/25

‘Following our update on 15 April, you may have begun to notice an increase in activity on site over the past few days.

Over the next 2 weeks, up to 30 lorry loads of clay material will be delivered to the site each day. This clay will be used as part of capping works in the western ‘void area’.

As the current excavation continues, there remains a risk of a slight increase in odour levels’.

2.21 The EA reiterated in each of the Latest News updates that ‘you can continue to report an odour using our number 0800 60 70 80 or by using our online form - <https://report-walleys-quarry-smell.service.gov.uk/>’

NuLBC Update

- 2.22** We will offer both the EA and liquidator any support we can within our powers to keep this landfill under control, as it is currently.
- 2.23** We will continue to monitor the data in relation to the landfill.
- 2.24** We will continue to undertake odour monitoring and assessments in the community.
- 2.25** We would ask that should the community be adversely affected by odour that complaints are logged to the EA or ourselves via [Report a problem or concern about Walleys Quarry – Newcastle-under-Lyme Borough Council](#).

Key Performance Data

- 2.26** Through the settlement agreement both Walleys Quarry Ltd and the Council had developed key performance indicators in relation to relevant data from each organisation, only data for NuLBC is available, following Walleys Quarry Ltd liquidation. The NuLBC data is shown in Appendix 3.
- 2.27** The data from the Council covers the period from February 2025 to April 2025 and provides complaint numbers and officer assessments.

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.

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.
- 6.2** In 2024, the Council established breaches of the abatement notice. As the Council was not the primary regulatory permission to undertake legal proceeding was sought from the Secretary of State. This permission was received in July 2024, preparation for legal proceedings commenced, with the intention to issue proceedings in late 2024.
- 6.3** This report details both the EA closure notice and subsequent appeal against the closure notice, which the Borough Council was a principal party to present evidence in relation to the statutory odour nuisance.
- 6.4** Walleys Quarry Ltd in February 2025 entered voluntary liquidation.
- 6.5** Upon the liquidation of Walleys Quarry Ltd, the abatement notice and the legal requirements in respect of odours, will cease to be enforceable. As a result, the legal proceedings will not continue.

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 a further 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 and when necessary for this action.

8.4 On 25 February 2025 the Council was listed as a creditor in the 'Notice of Statement of Affairs' signed by a Director of Walleys Quarry Ltd. The amount owed to the Council is £132,097.20. This outstanding debt is made up of £102,000 in respect of the legal fees agreed through the mediated settlement in court back in October 2022 relating to the Abatement Notice. The remaining amount relates to outstanding Business Rates.

8.5 The Council is now in correspondence with Walleys Quarry liquidators in order to recover these outstanding monies. Updates on this situation will be provided as and when available.

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:

- 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 21st 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, 16th July 2024, 10th September 2024, 25th September 2024, 15th October 2024, 5th November 2024, 25th November 2024. 3rd December 2024, 9th January 2025, 4th February 2025, 18th March 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