

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

CORPORATE LEADERSHIP TEAM'S

REPORT TO CABINET

03 June 2025

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 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 \(newcastle-staffs.gov.uk\)](http://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.
- 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
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	14
May 2025		
28/04/25 - 04/05/25	5	10
05/05/25 - 11/05/25	6	12
12/05/25 - 18/05/25	4	11
19/05/25 - 25/05/25	1	3
26/05/25 - 01/06/25	2*	Awaiting data

*Figure may alter due to backdated complaints received

2.2 May 2025

- There were no 'odour events' (where 10 or more complaints have been reported) during the month of May
- The highest number of odour complaints was on Saturday 10 May and Monday 12 May with 2 complaints
- The total number of odour complaints in May was 15 complaints

The total number of odour complaints reported each month continues to trend downwards.

NULBC Odour Assessments

2.3 Officers have undertaken odour assessments. 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.

May 2025

In May, 16 spot assessments were undertaken of which 1 detected landfill related odour with an intensity rating of 3 (distinct odour) at Cemetery Road.

NULBC Mobile Air Quality Monitoring (using Jerome monitor)

2.4 There was no hydrogen sulphide monitoring undertaken by Officers during May.

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).

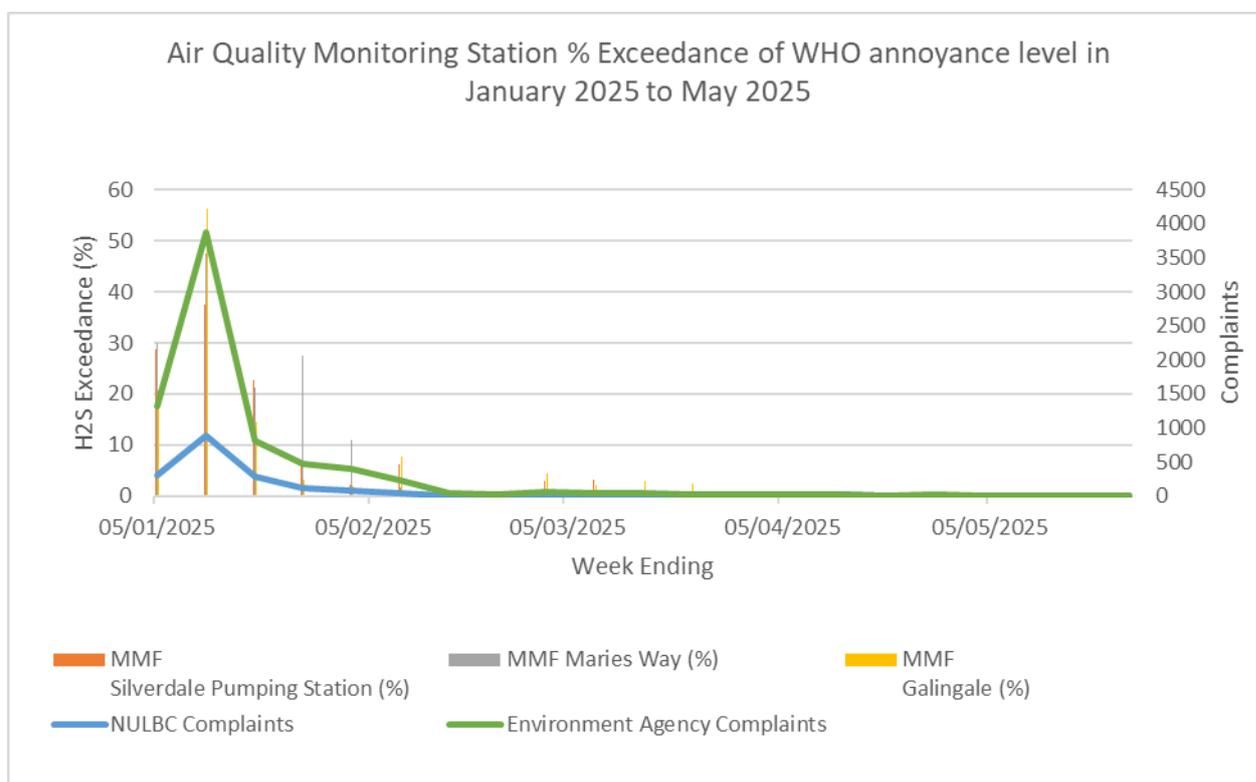
2.6 The EA air quality data for April 2025 has not to date been published. An update will be provided in the next report.

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 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
28 April - 4 May 2025	0.0	0.0	0.0

5 May - 11 May 2025	0.0	0.0	0.0
12 May - 18 May 2025	0.0	0.0	0.0
19 May - 25 May 2025	0.0	0.0	0.0

2.8 The complaint data and weekly % exceedance of the WHO annoyance level for 2025 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 No further Compliance and Assessment Reports have been published on the EA website since the previous Cabinet report.

Frequently Asked Questions

2.11 The Environment Agency updated [23 May 2025] their Frequently Asked Questions with questions split into 10 sub-sections:

- [Landfill Regulation and Environmental Permits](#)
- [Odour](#)
- [Air Monitoring and Health](#)
- [Landfill Design](#)
- [Public Register](#)
- [Engagement](#)
- [Investigations](#)

- [Hydrogen Sulphide analyser calibration issue](#)
- [Closure Notice](#)
- [Effect of Walleys Quarry Ltd entering liquidation](#)

Progress with onsite works

2.12 The EA have published the following updates:

2.13 Latest News 14/05/25

‘We would like to thank the community for their patience in relation to the steps being taken on the site, following Walleys Quarry Ltd entering into Liquidation and the permit being disclaimed.

Since the last update on 23 April 2025, our contractors have completed the new access track on the western flank of the landfill site. This will allow access to this part of the site for equipment and materials so contractors can remedy numerous capping defects. Materials continue to be brought onto the site for this and other works. The access track may be extended depending on the need.

During the next 4 weeks, further excavations and movements of materials will also be undertaken to progress works within the void area and along the inner western flank.

Odour from the site may increase when pipework is temporarily disconnected and re-aligned to minimise the risk of accidental damage. Contractors will do their best to minimise any excavation and re-profiling of odorous waste.

In addition, there is no intention to undertake works over the May Bank Holiday weekend, in order to further minimise any local impact.



Construction of an access track by contractors on the western side and crest of Walleys Quarry, in May 2025’

2.14 On a separate note the EA have updated the layout of their Engagement HQ website for Walleys Quarry Landfill Site.

'None of the previous information has been removed but it has been relocated.

You will now find the Background, Our Strategy, Closure Notice, and Permit Compliance pages in our library section under the heading Historic Regulation'.

Walleys Quarry Limited Update– Voluntary Liquidation [28 February 2025]

- 2.15** No further updates have been uploaded to the filing history for Walleys Quarry Ltd on Companies House.

NuLBC Update

- 2.16** 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.
- 2.17** We will continue to monitor the data in relation to the landfill.
- 2.18** We will continue to undertake odour monitoring and assessments in the community.
- 2.19** 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](#).
- 2.20** On 06 May the Council issued a press release to confirm that the legal proceedings against Walleys Quarry Ltd for failing to control emissions from the landfill could no longer proceed now that the business had entered liquidation.

Gordon Mole, Chief Executive of Newcastle-under-Lyme Borough Council, said:

“For legal reasons the action for breaching the Abatement Notice had to be against the site operator. Now that the company no longer exists, the action cannot continue.

It is frustrating that we no longer have the opportunity to see the operator in court but when we initiated the legal action the site was fully operational and generating thousands of complaints from the community.

Although we are not the main regulator for the site, we wanted to do all we could to help residents within our limited powers.”

“Pursuing this complex legal action has cost around a third of what it might have done, and there is no doubt that it was the right thing to do.

When we acted on behalf of residents there was no sign or promise of the EA's closure notice being issued, and the day-to-day life of residents blighted by this odour was terrible.

We had to use the limited powers available to us as best we could on behalf of the community.”

Key Performance Data

- 2.21** 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.

2.22 The data from the Council covers the period from March 2025 to May 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, 6th May 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