Culcheth Fly & Odour Action Group

Introduction and Background

- Culcheth Fly and Odour Action Group (CFOAG) was formed in 2022 as a result of the persistent and intolerable levels of odours and flies emanating from Diggle Green Farm (DG).
- The odour pollution has been an ongoing issue for about a decade. In recent years there have also been a large number of flies in the area, even during the colder months. Residents have reported 40-50 flies in their houses at any one time, which is a public health nuisance.
- Regular complaints have been made over the years by residents to both WBC and the EA, but nothing has changed. This has resulted in the creation of CFOAG with the aim of ensuring that Diggle Green starts to operate within its permits and licences.
- There are currently six members in the team:
  - ✓ Hilary Heywood
  - ✓ Carole Conroy
  - ✓ Janet Calvert
  - ✓ Jo Miller
  - ✓ Andrea Buchanan
  - ✓ Jarrad Rose
- The members are all Culcheth residents and have come from different professional backgrounds.
- Carole is a Chartered Environmental Health Practitioner and has detailed knowledge of the legislation and supporting regulations and guidance surrounding the operation of waste composting sites.

Legislation, Roles & Responsibilities

Warrington Borough Council (WBC)

- WBC become involved when there is evidence of a 'nuisance'; they also have a right to refer evidence to the Secretary of State if they believe permit conditions are being breached which can then result in action being taken.

Environmental Protection Act 1990 – Statutory Nuisance

"where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, …. the local authority shall serve a notice ("an abatement notice") imposing all or any of the following requirements—

(a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;

(b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes,

*any dust, steam, **smell** or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;*

*any **insects** emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance";*

Environment Agency (EA)

- Responsible for authorising and assessing compliance in respect of the permit required for DG to operate.

The Environmental Permitting (England & Wales) Regulations 2016

- Waste Composting Facilities require a license to operate, granted, and regulated by the EA.
- Amongst other matters, license conditions relate to:
  1) An effective odour management plan (OMP)
  2) An effective Pest Control Plan (PCP)
- Detailed guidance (regulatory and industry) exists.

Summary of Meetings

January 23

Meeting with WBC

- Waste arriving at DG is partially composted food waste
- Odour is produced by green waste

  DG is the confirmed source of the odour problem
- 4 Compliance Assessment Reports (CAR) received via a FOI report. 2 reported breaches of their operating licence (Feb 21 and March 22).
- Breaches relate to Management Systems & Operating Procedures and storage, handling, labelling and segregation of waste
- CAR reports indicate that a Pest Control Plan is not in place
- WBC to meet with the EA to determine a plan of action

March 23

Meeting with WBC, EA and Charlotte Nichol's – MP

- EA advised that the OCP was **not of an acceptable standard**
- DG were advised in **September 2020** of the requirement to produce an acceptable OMP and PCP. A number of the improvement programme requirements were to be achieved by **August 2022**.
- EA advised this is 'work in progress' and were unable to give a date by which this would be achieved.
- EA requested to set out why they have not initiated enforcement action as a consequence of the site not producing an acceptable OMP and PCP by the August 2022 deadline.

July 23

Meeting with WBC, EA and Charlotte Nichol's – MP

- WBC reported no evidence of flies or odour at any of the stockpiling or spreading sites
- EA advised that 75% of waste at DG was from its sister site in Todmorden. This comprises food, green waste and up to 5% plastic. All waste received was reported to be in line with DG's permit.
- EA advised that no testing regime was required, however, this was disputed by CFAOG
- EA undertaking an audit of DG and Todmorden during '23, employing an expert to assist. We recommended this should include a review of odour monitoring records
- WBC carried out 3 visits since March 2023, including a joint visit with the EA on 26th April and 2 unannounced visits on 9th May and 17th July.

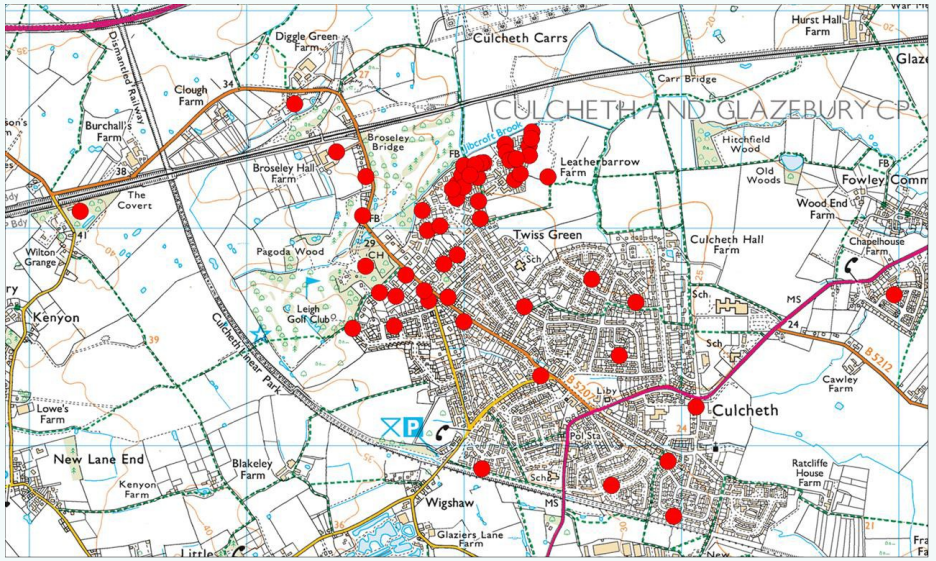
Summary of Meetings

November 2023

Meeting with WBC

WBC presented their report into the case findings:-

- Diary sheets were sent out to 61 complainants to assess daily numbers over a 2-week period in August
- A total of 74 visits to properties between April and October were carried out. This covered 18 separate days with 37 different properties visited
- 5 properties were found to have excessive fly numbers at various times from mid July to 1 August
- There was a large discrepancy between what was being reported by residents and observed by officers
- Assessment of the diaries and locations did not show any patterns of when and where people were most affected to consider potential sources.
- Considering frequency of impacts, these have been determined not to be a statutory nuisance at this time
- WBC state other causes including weather, rotting vegetation, farming practice, household waste bins. These are all disputed by CFAOG.



Summary of Meetings

November 2023

Meeting with WBC

- WBC stated that any odour impacts would not meet the statutory nuisance threshold whereby enforcement action would be considered.
- It has been determined that the Diggle Green site, when visited, had higher numbers of flies than would have been expected for that type of operation.
- The Council considers that a thorough investigation has taken place unitilising additional resources to be able to determine if a legal nuisance is occurring.
- Although there is no correlation with impacts at residents properties, it has been determined that Diggle Green had higher numbers of flies than would have been expected for that type of operation. It is considered that any appropriate enforcement route is through the EA Permit.

The following recommendations were made by WBC in their report:-

- An agreed Pest Management Plan should be put in place that includes routine spraying, observation of fly numbers with onsite monitoring, and all details recorded.
- It is also expected that the EA will investigate the links to the Todmorden site as this appear to be the predominant waste stream with fly activity on.
- Windrow turning should be looked at and whether this may cause dispersion. It is noted that windrow turning is not included with the Odour Management Plan of the site and that this should be updated.

Outcome of Site Visits

WBC have carried out 4 visits since March 2023, including a joint visit with the EA on 26th April and 3 unannounced visits on 9th May, 17th July and 10th August. The outcome of these visits is shown below:-

- 26th April - Joint visit with the EA. Higher numbers of flies that would be expected for the type of operation were observed on the windrows with Todmorden waste. These were considered excessive for the type of operation. Lower numbers were on the green waste piles. Discussed this with the operator who was then going to speak to their technical expert to look arrange appropriate spraying. Whilst numbers were high on the waste, there were no flies observed in the office area and minimal amount on the finished compost product. Flies appeared to be staying close to the waste windrows.
- 9 May - Unannounced visit. Now spraying the windrows. Fly numbers much reduced to an estimated half as before on the Todmorden windrows.
- 17 July - Unannounced visit. High fly numbers on windrows, increase on amount in May, similar levels to April. Spraying of windrows started during visit. Spraying seemed to agitate flies into air. No significant activity on finished product.
- 10 August - Unannounced joint visit with EA. No flies in office area. Noticeable fly activity on windrows, similar to April. Operator has just started using additional spray when windrows tuned. Compost product pile closest to the office had no fly activity, pile closer to the operational pad had increased fly numbers but still significantly lower than on the windrows.
- Whilst flies were observed on the windows, there is no evidence that these are then affecting residential properties.

Other Actions

- In May 2023 CFAOG group produced leaflets and distributed these to local households and businesses, providing contact email addresses and telephone numbers for complaints to be logged with WBC and the EA.
- An email address for CFAO was set up.
- In July 2023, the group were contacted by the Warrington Guardian, resulting in an an article highlighting the plight of the Culcheth residents relating to the flies appearing in the paper soon after.
- In January 2024 the group once again met with Charlotte Nichols and asked her to request the promised update from the EA which had not been forthcoming. The EA responded to Charlotte and confirmed that one of their officers did substantiate fly activity at DG which had the potential to cause risk of migration outside the permit boundary. The EA stated that they were continuing to utilise an expert to review DG's Pest Management Plan until DG had the appropriate measures in place. They also confirmed they were happy to meet the group again, but nothing has subsequently been diarised.
- In March 2024, CFAOG made a complaint to the Local Government and Social Care Ombudsman, via Charlotte Nichols. The complaint is regarding the EA's failure to carry out its statutory duty to appropriately regulate DG's activities.
- This complaint has been accepted but is yet to be allocated to a caseworker – we have been advised of a 6+month wait.
- The Ombudsman can advise the EA as to appropriate actions but has no enforcement powers. We hope the EA will be receptive to guidance issued by them.

What do we know?

- 75% of the waste arriving at DG is from its sister site in Todmorden. This waste comprises food, green waste and up to 5% plastic.
- DG does not have an approved PCP or OMP (at the time of our last meeting in November 23).
- Stockpiling and spreading of waste has been ruled out as a potential source of the flies.
- Following visits to the site, WBC confirmed that DG is the source of the odour problem; it has not been possible to attribute the fly problem directly to DG because WBC does not report having sufficient evidence to prove this is the source.
- The CAR Report produced by the EA demonstrated a direct link relating to the flies. WBC stated the CAR Report was an EA document and not a WBC document and confirmed that WBC do not have sufficient evidence to take enforcement action – they cannot determine that DG is the source .
- WBC stated that any odour impacts would not meet the statutory nuisance threshold whereby enforcement action would be considered.
- It has been determined that the Diggle Green site, when visited, had higher numbers of flies than would have been expected for that type of operation.
- No specific single source has been found that could be proved to cause increased levels of flies whereby enforcement action could be taken.
- From the mapping of complainants and from the diary sheets, there is no clear link to a single potential source. It is acknowledged though that this is only based on residents who have complained to the Council and that there may be others affected who choose not to complain.
- It is considered that any appropriate enforcement route is through the EA Permit.
- We await the outcome of the complaint to the Ombudsman.

Questions & Next Steps – How Can We Work Together?