

NORTH DEVON COUNCIL

SPECIAL OVERVIEW AND SCRUTINY COMMITTEE: 7TH MARCH 2019

**MINUTE EXTRACT OF COUNCIL HELD ON 21ST NOVEMBER 2018 IN RESPECT
OF ITEM 4 ON THE SPECIAL OVERVIEW AND SCRUTINY AGENDA**

52 **REPLIES TO ANY QUESTIONS SUBMITTED BY THE PUBLIC
AND/OR TO RECEIVE PETITIONS UNDER PART 4 COUNCIL
PROCEDURE RULES, PARAGRAPHS 8 AND 9 OF THE
CONSTITUTION**

- (a) To consider the following question received from Ms Jane Faust to
Councillor Brailey

Council received the following question from Ms Jane Faust:

“NDC is not following the government Inspectors' Conditions for measuring and assessing the noise levels from the wind turbines at Batsworthy Cross. Subsequently, to establish why this process is failing, a member of the Overview & Scrutiny Committee referred this matter to the Overview and Scrutiny Committee. However the Chair of the Overview and Scrutiny Committee says that *"as this is clearly a planning matter it can not be a matter for the O&S Committee."*

However, the following reasons, supported with referenced evidence to the legislation below, show this matter can be referred to the OSC, Overview and Scrutiny Committee:

- 1) The OSC can investigate the discharge of any local authority function; and this case is about a failure to deliver a service.
- 2) While there are exclusions on referrals, (for example, on matters relating to planning), these do not apply if, as in this case, the referrer is a member of the OSC.
- 3) Regardless, even if the referrer was not a member of the OSC, the exclusions do not apply, if as in this case, there is allegation of a failure to discharge a service.

In light of these evidenced findings, to ensure the Overview and Scrutiny Committee is not prevented from acting in line with its duties, the Leader of the Council is asked please, (using reasons directly referenced in the pertinent numbered legislation), whether the Overview and Scrutiny Committee Chair's stance complies with the Overview and Scrutiny legislation, in other words, whether allegations of NDC's failure to deliver a service, can in fact be referred to the Overview and Scrutiny Committee?"

In response to the question, the Leader advised "The question that has been raised now appears to be requesting that Overview and Scrutiny look at an issue that is

wider than that covered by the original request made by Councillor Ley. On that basis, I will speak with the Chair of Overview and Scrutiny and ask him to speak with Councillor Ley about calling your question to Overview and Scrutiny.” A copy of the response was tabled.

Ms Jane Faust asked a supplementary question requesting confirmation that their concerns will go to Overview and Scrutiny as North Devon Council was not delivering conditions that the Government determine necessary.

In response to the supplementary question, the Leader advised that he would ask the Chair of Overview and Scrutiny to review this with Councillor Ley and the Committee would look at all aspects.

Councillor Patrinos, Chair of Overview and Scrutiny Committee advised that he would speak with Councillor Ley and then consider when and how it would be considered by the Committee.