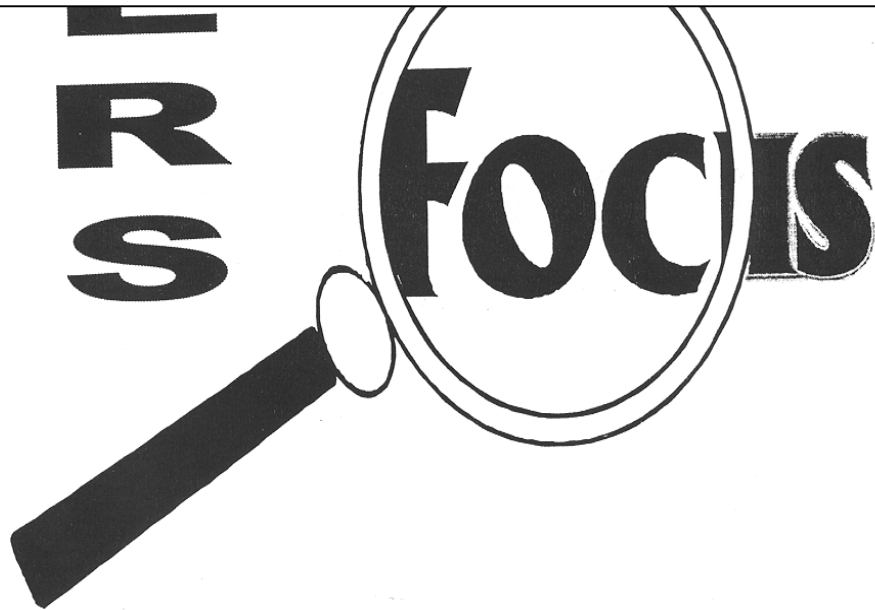


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*Members' Focus is available on-line at www.braintree.gov.uk
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then "Members Focus".*

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Focus

March 2006

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MEMBERS' FOCUS

AREA: Braintree, Witham, Halstead and Toppesfield

CORPORATE THEME HEADING:

SUBJECT: Digital TV	CONTACT OFFICER: Ian Perry
TEL/EMAIL No.: 2888 ianpe@braintree.gov.uk	BACKGROUND PAPERS:
INFORMATION:	
<p>It is programmed that the switch over to digital TV will take place around 2010 to 2011. This will ensure universal access to high quality 'free to view' and subscription digital TV.</p> <p>Analogue TV will be switched off.</p> <p>This naturally causes a number of issues for the users of the Council's communal TV aerial system with a particular area of concern being flats and sheltered blocks.</p> <p>The Housing Service have been investigating the options open to them and to the users of the system and with this in mind, working in partnership with Sky Homes a pilot programme of installations will commence over the next month.</p> <p>Using our experience and knowledge regarding current systems and levels of reception the following flat blocks are to have the installations carried out:</p> <ol style="list-style-type: none">1. Fortis House, Witham2. Dover Close, Braintree – one block3. Trinity Court, Halstead – one block4. Dordell Court, Toppesfield <p>This project is being funded through the Housing Service 'New Initiative Budget'. This pilot will give the Housing Service an idea of the demands on future budgets. Lead officer for further information Ian Perry on extension 2888.</p>	

MEMBERS' FOCUS

AREA: CORPORATE

CORPORATE THEME HEADING: IMPROVE PERFORMANCE
AND DELIVER BETTER VALUE

SUBJECT: Pre-determination and bias	CONTACT OFFICER: P J Dempsey, Monitoring Officer
TEL/EMAIL No.: Ext. 2620 Email: patrick.dempsey@braintree.gov.uk	BACKGROUND PAPERS: Elizabeth Condron v (1) National Assembly for Wales (2) Miller [2005] EWHC 3007

INFORMATION:

The National Assembly for Wales (through the Chairman of its Planning Decision Committee) has been able to make a contribution to the development of the law of apparent bias. Although relating to the National Assembly for Wales, the decision is relevant to all Members of the Council when acting in a quasi-judicial manner.

The case concerned a decision of the Assembly to grant planning permission to a developer. Following an Inquiry at which numerous objectors had spoken against the development, the planning permission had been “called-in” so as to be determined by the Assembly. Through the Assembly’s Standing Orders, the matter was delegated to its Planning Decision Committee (PDC) which granted planning permission subject to conditions. An objector living near the proposed development site met and spoke briefly to the Minister responsible for planning who was next day to be the Chairman of the PDC which was to determine the application. In the course of a brief conversation the Minister (amongst other things) apparently said that he was “going to go with the Inspector’s Report”. The objector indicated in her evidence that she had not been surprised to have heard that the PDC had approved the application since, in her view, the Minister “had already made up his mind”. At the end of her witness statement, the objector said that from what the Minister had told her “... it was absolutely clear that he was not bringing an unbiased properly directed and independent mind to the consideration of the matter”. The Judge noted that there was no evidence of any clear denial by the Minister that he had said that he was “going with the report of the Inspector” despite the fact that nothing “could have been simpler than to deny those words had he been minded to do so”.

The test for bias supplied by the Judge was that in the speech of Lord Hope in *Porter v Magill* where Lord Hope had said that:-

“The question is whether the fair minded and informed observer, having considered the facts, would conclude there was a real possibility that the Tribunal was biased”. The judge also referred to the decision in a later case (*Georgiou v Enfield LBC*) where the Judge there had said:-

“... in considering the question of apparent bias in accordance with the test in *Porter v Magill*, it is necessary to look beyond pecuniary or personal interests and to consider in addition whether, from the point of view of the fair-minded and informed observer, there

MEMBERS' FOCUS

was a real possibility that the planning committee or some of its members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of all relevant planning issues”.

The Judge in the Wales Assembly case pointed out that the fact that bias was an issue only as to one Member of a Committee did nothing to save the Committee’s decision, at all events when it is not (and cannot be proven that) an unbiased simple majority voted in favour of planning permission being granted.

In the circumstances, the Judge concluded that “there was an unacceptable possible pre-determination in the PDC” that authorised the grant of planning permission in question. A fair-minded observer hearing the words attributed as above by the objector to the Minister, on learning (amongst other things) that the Minister was to be the Chair of the PDC dealing with the application next day would in the Court’s view conclude there was a real possibility that the Member of the PDC was biased and that:-

“The Member would be approaching the request of permission with a closed mind and hence also without impartial consideration of all relevant planning issues”.

As to the real consequence, the Judge noted that it will usually be inappropriate on a finding of pre-determination not to quash the decision in question. In the circumstances, whilst he recognised that “this is a very large consequence for a very small remark”, the Judge did indeed set aside the Assembly’s decision.

This case illustrates the great importance for those Members taking decisions in a quasi-judicial or other capacity which may affect others to ensure that such Members are able to take any such decision untouched by any considerations of bias, apparent bias or perception of pre-determination.

MEMBERS' FOCUS

AREA: All

CORPORATE THEME HEADING: MEETING COMMUNITY NEEDS

SUBJECT: Promoting Healthy Eating in Schools	CONTACT OFFICER: Nadine Horsewell – Technical Officer (Food and Health and Safety)
TEL/EMAIL No.: (01376) 551414 x 2216 nadine.horsewell@braintree.gov.uk	BACKGROUND PAPERS: None
<p>INFORMATION:</p> <p>The Health Protection Department, Environmental Services, has actively coordinated and participated in an Essex wide project that aims to improve the nutritional standards of school meals. This project was a joint venture between Local Government and Trading Standards.</p> <p>The project involved sampling the meals provided at a local primary school over a typical week. These samples were then analysed for their nutritional content. A report that details the nutritional content of each meal, a summary of the week and how the nutritional content of the meals relates to nutritional guidance, i.e. the Walker guidelines, was produced.</p> <p>The school we chose to sample currently serves a “healthy” menu with only fresh ingredients used to produce their meals. Their menu was designed by a Local Chef who is working with many schools in the Braintree District area with the aim of improving the quality of school meals. So although we only sampled one school, this menu is representative of the many schools in our area. This menu is also being highly promoted within our area so we wanted to ensure this menu is a good model for schools to follow.</p> <p>The results were generally positive, with salt levels meeting suggested guidelines (an area that a lot of schools sampled by other councils failed to meet). Some vitamins, however, were lower than required. A copy of the report has recently been sent to the local Primary Care Trust who are arranging for a dietician to work with the local chef so that the menu can be adjusted accordingly to meet nutritional guidelines.</p> <p>This project has been a very successful joint venture between BDC, Trading Standards and the PCT that will have a positive impact on the health of the children in our area.</p>	

MEMBERS' FOCUS

AREA: ENVIRONMENTAL SERVICES

CORPORATE THEME HEADING:

ENVIRONMENT & PUBLIC PROTECTION AND HEALTHY LIVING

SUBJECT: Control of Flooding	CONTACT OFFICER: Lee Crabb
TEL/EMAIL No.: 01376 552525 ext 2227	BACKGROUND PAPERS:

UPDATE ON FLOODING ISSUES THROUGHOUT THE DISTRICT

Despite the lack of significant rainfall of late, the Council continues to investigate and remedy flooding hot-spots throughout the District. Small-scale work is carried out by the Council, either directly or using our enforcement powers. More significant schemes are carried out through a partnership arrangement led by Cllr. Finch which involves officers from the Environment Agency (EA), Essex County Council (ECC), Braintree District Council (BDC) and the ECC contractor, May Gurney.

Critical Ordinary Water Courses (COWs)

The EA will take over responsibility (from the local authority) for maintenance of 6 local water courses in April of this year. From that date, they will also be responsible for flood prevention measures relating to COWs.

There are three COWs which we are currently involved with:-

1. Lilly Corner, Steeple Bumpstead
2. Rectory Road, Sible Hedingham
3. Leather Lane, Great Yeldham

Flood Alleviation Projects around the District

Sible Hedingham

The scheme at Alderford Street in Sible Hedingham is being progressed on a multi-agency basis (ECC, EA, BDC and the ECC's contractor May Gurney). However, the scheme has stalled due to a land ownership issue as part of the compulsory purchase.

The scheme at Rectory Road in Sible Hedingham (also being progressed on a multi-agency basis) has also run into problems. One of the consenting farmers on whose land the construction work was to take place has sold the farm and so negotiations have to start afresh with the new owners.

Great Yeldham

Substantial dredging has been carried out by the EA on the River Colne including the heavily silted stretch under Oak Bridge. There is still a fallen tree to be removed, but it is hoped that this will be cleared later in the year.

Upstream from the bridge, a weir has been found which is used to hold back the water to

MEMBERS' FOCUS

increase river levels upstream for an ornamental pond. The EA is in discussions with the local farmer to see if the old weir can be replaced with a new one that has removable boards, so that river levels can be controlled through the summer and winter.

The EA also undertook some research to see if a retention pond was feasible for the area, but the predicted costs far outweigh any benefits. According to the EA, it is anticipated that the area will remain safe from flooding during 1 in 20 year floods, but despite significant improvements to the waterways, there will still be a risk during a 1 in 500 years flood. The impact of any such flood will be substantially mitigated by the works already undertaken and those which are yet to be carried out.

The issues with highway flooding in Leather Lane will be taken on by the EA as part of their COW responsibilities and they will continue to survey the brook and build on improvements already secured by our own officers.

Coggeshall

The EA has commissioned a flood analysis in respect of the up-river catchment with a view to constructing a flood retention scheme. Results have concluded that such a scheme will be cost effective and plans are being drawn up at present with the intention of constructing in 2008 – 2009 subject to funding being available.

Bocking Church Street

Investigations have concluded that flooding in the locality is as a direct result of a culvert which runs under the road. The culvert also runs under domestic properties on its way to the river and so replacement is not practical. Plans to improve the culvert will hopefully take place as part of any new development through an S.106 agreement.

Magdalene Crescent – Silver End

The properties that are at most risk (BDC ownership) are now for sale. Work has been carried out to road gullies to get the water into the underground pipe network. We have installed a sloping grill to the lower water system to prevent blockages and to allow more water underground. However, the problem rests with the Water Company who appears to be responsible for the two culverts that run under the road. Officers have commissioned a FLOOD ESTIMATION exercise based on both a 100 year and a 30 year flood. The results show that the public surface water sewer is about half the capacity required. A site meeting of officers from the EA, BDC and ECC is being arranged to pursue the problem.

Halstead Flood Relief Scheme

The Halstead Flood Relief Scheme is nearing completion. There will be an official opening ceremony on 6 June 2006.

Brook Walk, Witham

Survey work and some remedial work have already started on this scheme. The intention is to

MEMBERS' FOCUS

construct a hydro break and a flood retention pond just upstream of the headwall in Howbridge Road. The scheme will incorporate features such as reed beds and a nature area.

Other small-scale work and road gullies

We continue to spend small amounts of money on various minor works throughout the District which have brought relief to a number of residents, as the fear of flooding in their locality has been removed. In addition, ECC Highways has now completed the massive task of emptying every single road gully within the District which will considerably ease road flooding.

Partnering

BDC officers are responsible for instigating a unique regional Land Drainage Officers' Forum. Contacts have been made with other neighbouring district councils and authorities to meet on a regular basis to explore and discuss land drainage matters so that improvements and a common approach can be made locally to combat the risk of flooding.

MEMBERS' FOCUS

News

Local group to disband unless new members found

Page 1 of 1

At the Annual General Meeting of the Braintree and Witham Action Group (BWAG) on the 8th March, the group were unable to form a committee. Although there were nominations for Chair, Vice-Chair and Treasurer, the position of Secretary and general Committee Members remained unfilled. As the action group works within a constitution, the group would be unable to continue without a properly formed committee.

Supported by Braintree District Council, the Braintree and Witham Action Group (BWAG) is funded until the end of March and has until then to seek new members to help further its aims to improve neighbourhoods and the quality of life for residents in the district. The only experience needed is an awareness of local issues and a desire to work with other residents to try and improve the quality of life for residents. Directed by local residents themselves, the group is proud to already have achieved several significant improvements: for example

- funding for three estate rangers, who are out and about in the community to help with neighbourhood and local environmental issues
- two neighbourhood community offices, in Witham and Braintree
- Estate noticeboards

New members will help to keep the group's strong focus on neighbourhood and community issues.

Cabinet member Cllr Simon Walsh comments: "BWAG is a group which can have a direct influence on the way the council spends money on local estates and offers residents an inside track to working with the council. It has a really important part to play, in improving the local environment and dealing with things like anti-social behaviour. The group has a proper constitution, meaning that the council can cover routine expenses, including transport to the meetings or childcare where needed and I'd like to see more people getting involved and having even more influence."

Residents and tenants who are interested to join the group can contact Sue Banthorpe in the Tenant Participation team on 01376 552525.

ENDS

For more information contact: Chris Trim (01376) 557752 or Jo Petchey (01376) 551414

Issued by: Braintree DC PR 10 March 2006

MEMBERS' FOCUS

News

New recycling survey team on your doorstep

Page 1 of 1

During the next six weeks, a small team of recycling researchers employed by Braintree District Council are visiting houses throughout the Braintree and Witham areas, asking people their views about recycling and whether they recycle more than before.

The team is easy to spot, wearing highly visible jackets and name badges. There is no need for them to enter people's homes and have been instructed not to do so. They will be out and about at different times of day, including some Saturdays, only visiting houses which have the alternate week wheeled bin collections. If no one is at home, they will leave a card and every resident who completes the survey will have the chance to win tickets to the Ideal Home Show at Earls Court. Winners will be selected at random during the next few weeks.

Cabinet member Michael Gage comments: "It's important to stress that our researchers will not come into people's homes, even if invited. They are visiting people to find out whether people are motivated to recycle and what would encourage them to do more. The bonus is that there's a chance to win free tickets to the Ideal Home Show."

ENDS

The team will visit homes in Braintree and Bocking, Rayne, Great Notley, Black Notley, Cressing and Witham, between now and the end of March.

For more information contact: Ros Alam (01376) 551414

Prizewinners' details will be available as they become available.

Issued by: Braintree DC PR 27 February 2006

MEMBERS' FOCUS

Diary Date

Spring clean for roads in district

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Photo opportunity: Thursday 16th March

9:30am – Temple Lane (at triangle junction half way between Crossing Temple and Silver End.)

10:30am – Just before junction of Petersfield's Lane and the A131, half a mile north of High Garrett.

Between the 13th to the 24th March street cleaners and litter pickers will be working on the seasonal spring clean of the districts roads and verges in a bid to tackle litter and rubbish problems.

It is one of the many ways Braintree Council is working to reduce littering and make the district a better, cleaner place for everyone to live.

ENDS

For more information contact: Katrina Bramwell (01376) 557752

Issued by: Braintree DC PR 9 March 2006

MEMBERS' FOCUS

AREA: Planning Policy

CORPORATE THEME HEADING:

<u>SUBJECT: PPG17 AUDIT AND GREEN SPACE STRATEGY</u>	CONTACT OFFICER: Stuart Kay
TEL/EMAIL No.:	BACKGROUND PAPERS:
INFORMATION:	
<p>Following a successful PPG17 and Green Space Strategy Seminar at the Discovery Centre on 26th January, and capitalising on the enthusiasm which that event generated, the Council is now embarking on the PPG17 audit. (PPG17 is the Government guidance note on planning for open space, sport and recreation.)</p> <p>The audit will cover most forms of outdoor open space, sport and recreation facilities. It will examine 5 key attributes of quality, quantity, levels and type of use, and accessibility.</p> <p>It will be used to inform planning policy, including the forthcoming Open Space Supplementary Planning Document which will set out guidance on the application of standards for open space provision in new housing developments. A further outcome will be the development of a Green Space Strategy which will provide guidance on the management and maintenance of open spaces.</p> <p>A Steering Group of Members and officers will guide the project, which is programmed to take 12 months to complete. A CABE (Commission for Architecture and the Built Environment) space advisor will be available to offer guidance on the project.</p> <p>Preparatory work has been started on mapping the multitude of open spaces and facilities to be assessed under the audit. The audit is expected to take 7 months to complete and will include surveys of providers and users of the open spaces and facilities, assessments of need and definition of standards of provision. This will be followed by the development of a Strategy which will apply the provision standards to determine whether there is a surplus or deficiency in existing provision and enable future needs to be forecast. It will also set priorities for the planning, management and maintenance of open spaces and sports and recreation facilities.</p> <p>For further information please contact Stuart Kay in the Planning Policy team.</p>	

MEMBERS' FOCUS

AREA: DEMOCRATIC SERVICES

CORPORATE THEME HEADING: PLANNING

SUBJECT: Planning Appeals	CONTACT OFFICER: Alison Webb
TEL/EMAIL No.: 01376 551414 Ext. 2614 alison.webb@braintree.gov.uk	BACKGROUND PAPERS: Nil
INFORMATION: To provide details of recently lodged planning appeals and appeal decisions.	

INFORMATION: APPEALS LODGED

Appellant: Enterprise Heritage
Site: Land rear of 118-132 Nunnery Street, Castle Hedingham
Development: Proposed new dwelling
Application No: 05/01514/OUT
Start Date: 1st February 2006

Appellant: Smart Planning Ltd
Site: Land adjacent to 6 Warley Close, Braintree
Development: Erection of a pair of semi-detached dwellings
Application No: 05/02159/FUL
Start Date: 7th February 2006

Appellant: Mr J O'Brien
Site: 43-45 Newland Street, Witham
Development: Installation of shutters to front of shop
Application No: 05/01138/FUL
Start Date: 10th February 2006

INFORMATION: APPEAL DECISIONS

Appellant: Braintree Hockey Club
Site: Braintree Hockey Club, Church Street, Bocking, Braintree
Development: Erection of 24 no. residential apartments and parking together with erection of new club house for hockey club
Application No: 04/01237/FUL
Decision & Date: DISMISSED 14th February 2006

Appellant: Mr R Barton
Site: 14 Park Lane, Earls Colne
Development: Proposed two storey side and rear extension
Application No: 05/01195/FUL
Decision & Date: DISMISSED 8th March 2006

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