

Local Government  
**OMBUDSMAN**

3 December 2012

Mr Tony Evans  
Oakleigh  
Newgate  
WILMSLOW  
SK9 5LN

Your ref:

Our ref: 11 020 251

(Please quote our reference when contacting us and, if using email,  
please put the reference number in the email subject header)

**If telephoning please contact: 01904 380250**  
**email address: R.McMeekin@coinweb.lgo.org.uk**

Dear Mr Evans

**Complaint about Cheshire East Council**

Thank you for your letter of 11 November 2012.

Planning application 5/97/0758 was not approved subject to a Section 106 Agreement and I apologise if anything in my early correspondence led to a misunderstanding about this.

The Council tried to secure the developer's co-operation through a Section 106 agreement (in 2001) but, when the developer refused to agree (please remember section 106 agreements are *agreements*, they cannot be imposed by the Council) the Council sought instead to introduce conditions through which compliance could be controlled. What we therefore have is a planning permission with conditions. Conditions can be harder to enforce than obligations agreed through section 106 agreements but regrettably, very little attempt has been made by the Authority to enforce even these conditions and the passage of time makes it too late now for the Ombudsman to intervene.

I acknowledge that the water level in Rossmere Lake may be lower today (or before the recent wet summer) than, say, last year but what I cannot do is link that unequivocally to the peat extraction. Again, because of the Council's failure to enforce conditions and the lack of any complaints about this until recently, we cannot say what other factors may or may not have influenced this. The same is true of the dipwells, the land settlement and the water vole population. All I can say is that failure to require compliance with the conditions of the planning permission (or decide they were

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not expedient to enforce) is maladministration and the Council should take immediate steps to ensure this does not persist. What I cannot do, at this point in time, is speculate on the extent to which historic maladministration on this site has harmed the environment.

May I suggest that local residents, through their Parish (or Town) Council and elected Members, take steps to start holding the Council to account. There may not be another significant opportunity until the current permission comes up for renewal but, when the opportunity arises, it should not be missed. Until then, I regret to say I must close your complaint on the basis that I have been unable to establish with any certainty that the injustice you claim has arisen from maladministration and not some other factors.

Thank you for writing to the Ombudsman. I am sorry that, on this occasion, I have been unable to help you.

Yours sincerely

A handwritten signature in black ink that reads "Rhona McMeekin". The signature is written in a cursive style with a long, sweeping underline that extends across the width of the signature.

Rhona McMeekin  
Investigator

Enc: Statement of my final decision