

Case Name: *Clientearth, R (on the application of) v Secretary of State for Business, Energy and Industrial Strategy & Anor* [2020] EWHC 1303 (Admin) (22 May 2020)

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Commentary: This was a successful claim for judicial review of the screening decision made by the Secretary of State that an Environmental Impact Assessment ('EIA') was not required for the proposed development of a site under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

The site had been one of four sites in the UK licensed by the Department for Environment, Food and Rural Affairs for the disposal of infected cattle during the 1990s, and the developer had been granted permission for the demolition of the existing structures on the site and the erection of up to 20 dwellings with improved vehicle access and extensive landscaping. The Claimant lived nearby and objected to the proposed development.

The Court quashed the screening decision and found that the Secretary of State had unlawfully decided that planning permission could be granted without first undertaking an EIA, particularly since it had identified that the issue of contamination required further investigation, assessment and remediation if required. Following the case of *Gillespie v First Secretary of State* [2002] EWCA Civ 400, the Court held that it was unlawful to assume that effective remediation works could be worked out during the course of the development.

In the light of this conclusion, the Court did not consider it necessary to decide the Claimant's further grounds of challenge alleging a failure to take into account a material consideration and irrationality.

Case summary prepared by Ricardo Gama