

**Case Name:** *QM Developments (UK) Ltd v Warrington Borough Council* [2020] EWHC 1511 (Admin) (11 June 2020)

**Full case:** [Click Here](#)

**Commentary:**

The claimant lodged a judicial review of the Council's decision to issue a certificate of lawfulness of existing use ('CLEUD') with the inclusion of an informative on that CLEUD and asked that the CLEUD be quashed and an order made for its reissue without such informative. The CLEUD recorded that the use and development identified in the application was lawful on the basis that it represented the lawful implementation of the planning permission which was itself based upon the previous approval granted in 2007. The CLEUD also included an informative in the following terms:

"Whilst planning permission 2010/16124 was lawfully implemented, condition 6 attached to that permission was not fully discharged and will require the submission of additional details."

Condition 6 relates to remediation works for possible contaminated land. The claimant contended that it was clear that the purpose of the CLEUD was to resolve the issues arising in relation to the discharge of the ground contamination condition (condition 6) and that, whilst the lawfulness of the development had been resolved by the issuing of the CLEUD, any benefit to be derived from it being granted was entirely obviated by the imposition of the informative suggesting condition 6 had not been fully discharged.

The Council argued that it is not possible to judicially review the imposition of an informative because informatives have no legal effect. Indeed, this is confirmed in the National Planning Practice Guidance.

The judge agreed with the Council and considered whether the claimant had alternative remedies, which he found the claimant did, by virtue of the ability to appeal to the Secretary of State who would consider the full merits of the CLEUD application, including the inclusion of the informative. The judge found no exceptional circumstances which would justify the use of judicial review in this case and therefore there was no need to resolve the substantive issue at large regarding the imposition of the informative.

The claim for judicial review was dismissed.