

**Case Name:** *Ocado Retail Ltd, R (On the Application Of) v London Borough Of Islington (Rev1)*  
[2021] EWHC 1509 (Admin) (07 June 2021)

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

**Commentary:**

This was an unsuccessful challenge by Ocado against Islington Council in which the High Court supported the Council's decision to revoke a Certificate of Lawfulness of an Existing use or Development ("CLEUD") granted to Telereal Trillium.

Telereal had been granted a CLEUD certifying that there was lawful use of units A-D on an industrial estate for storage and distribution purposes. The application stated that the use had been for more than ten years from 1992 in breach of a condition in a planning permission granted in 1984. For CLEUD applications public consultation is not required and none had been carried out in this case.

In 2014, Telereal arranged for the grant of a ten-year lease of the four units to Royal Mail as a distribution warehouse, but this ended in 2017 and in 2018, Ocado entered into an agreement for the lease of the units relying on the CLEUD that had been obtained and subsequently submitted a planning application to the Council for improvements to the premises. However, unlike the CLEUD, this was subject to consultation with landowners and occupiers, which attracted objections to Ocado's use of units A-D. The objectors became aware of the CLEUD and were successful in getting the certificate revoked on grounds that Telereal's application was based on false statements and the withholding of material information. These included false statements that between 1992 and 2013, units A-D had been fully operational as a warehouse and a statutory declaration accompanying the application withholding the fact that a key witness had not visited the site during Royal Mail's lease to attest its use during that period.

Ocado advanced its judicial review claim on several grounds whereby the court ruled that it was unnecessary for the withheld information to be deliberate but accepted that the Council had erred in law by proceeding on the basis that an accrued right relating to a breach of planning condition is lost if that right does not continue to be exercised.

The claim was dismissed by Mr Justice Holgate, who stated in response to one of the grounds advanced that "Public confidence in CLEUDs must extend to the reliability of the information put forward by an applicant to support the grant of a certificate. That was a matter which Islington plainly had in mind in paragraph 8 of the Delegated Report. Telereal obtained a certificate to which it was not entitled on the basis of the information it provided and withheld."

For further discussion please see [simonicity](#).

*Case summary prepared by Lida Nguyen*