



**SOUTH EASTERN AND METROPOLITAN TRAFFIC AREA  
DECISION OF THE DEPUTY TRAFFIC COMMISSIONER  
PUBLIC INQUIRY HEARD AT ASHFORD TRIBUNAL SERVICE  
1<sup>st</sup> FLOOR, ASHFORD HOUSE, ASHFORD, TN23 1YB  
OK0201416 DEBBIE LINDA CARPENTER & LEE ROYSTON CARPENTER  
OK1128949 DLC HAULAGE (KENT) LIMITED  
OK1144872 JRC HAULAGE LIMITED**

**Decision**

**a) Compliance**

**Breach of Section 26 (1) (b) Goods Vehicles (Licensing of Operators) Act 1995 found and warning issued.**

**Repute of transport manager Lee Royston Carpenter remains intact.**

**Surrender of licence held by Debbie Linda Carpenter & Lee Royston Carpenter accepted.**

**b) Variation application**

**Licence condition 3) on licences held by DLC Haulage (Kent) Limited and JRC Haulage Limited varied so that authorised vehicles shall not exceed 32 tonnes.**

**Background**

1. The partnership Debbie Linda Carpenter and Lee Royston Carpenter holds a standard national operator's licence granted on the 16 January 1995 authorising two vehicles. DLC Haulage (Kent) Limited holds a standard national operator's licence granted on the 8 July 2014 authorising three vehicles. The sole director of the company is Danny Lee Carpenter and the transport manager is Lee Royston Carpenter. JRC Haulage Limited holds a standard national operator's licence granted on the 23 May 2016 authorising two vehicles. The sole director of this company is John Roy Carpenter and the transport manager is Lee Royston Carpenter. The partnership and limited companies are part of a joint family business Lee and Debbie Carpenter being the parents of Danny and John Carpenter. The work carried out is mainly haulage of waste and aggregates to and from building sites involving the use of tipper vehicles.

2. In May 2016 variation applications were granted in respect of the licences held by DLC Haulage (Kent) Ltd and Debbie and Lee Carpenter, and a new application for a licence made by JRC Haulage Ltd, to authorise the use of Unit 2 Yard, Shepherds Farm Industrial Estate, Rose Lane, Lenham Heath, Maidstone, Kent, ME17 2JN. The site had been an operating centre in relation to licences held by other operators and had been the subject of a public inquiry when a number of conditions were attached to the licence so as to limit the detrimental environmental impact of the operating centre. The original decision of the Deputy Traffic Commissioner dated 31 March 2008 in this regard was appealed to the Upper Tribunal where the appeal was upheld and changes to the conditions were made. The citation for the decision of the Upper Tribunal is Greaves Surveying & Engineering Limited 2008/335. As a consequence of the background, whilst no objections were lodged in 2016 to the variation applications and new applications to the licences under consideration, a number of conditions were attached to the licence. These conditions included a requirement that vehicles authorised under the licence will not exceed 12.5 tonnes gross vehicle weight.
3. Following concerns raised by the Southern Intelligence Unit it was discovered that two vehicles with a 32 tonne gross laden weight were specified on the current licences and the operator was advised to apply for a variation to the licences to change the condition restricting vehicles to 12.5 tonnes. The variation application specifically in respect of DLC Haulage Limited prompted a letter of representation from Dr & Mrs B A Kennett who were invited to attend the subsequent public inquiry set up to consider the matter. The operators were advised that the alleged breach of the conditions prohibiting the use of vehicles over 12.5 tonnes would be considered at the same enquiry.

### **The Public inquiry**

4. John, Danny, Debbie and Lee Carpenter attended the public inquiry and were assisted by transport consultant Mr Riley. Traffic Examiner Lister attended having prepared and submitted an Environmental Site Visit Report dated 7 March 2018. Dr and Mrs Kennett attended to outline their representations against the variation application made by DLC Haulage (Kent) Ltd, as well as that made by JRC Haulage Ltd. At the outset of the inquiry I clarified the issues for consideration and said that I had visited the site earlier on that morning.

### **Evidence**

5. I dealt first with the background in terms of the original move by the operators to the Rose Lane site in 2016 and Mr Riley read through a statement in this regard on behalf of the operators. He confirmed that there had been protracted correspondence with the central licensing office in Leeds when the variation of operating centre was applied for and a letter dated 24 March 2016 from Lee Carpenter to the office was produced. This letter included a

statement that “we will be using the premises as parking only and not a distribution centre so therefore our vehicles will not exceed 12.5 ton”. Mr Carpenter stated that he had thought that this meant that the operators were able to use the operating centre for the four 32 tonne vehicles because the vehicles were always unladen when they left and returned to the site. He said that whilst there had not been a specific record made of the unladen weight he believed it to be below 12.5 tonnes. Mr Riley said that there had been confusion “on both sides” and everyone seemed to have been misled by the process. When the confusion was clarified and the operators discovered the error they applied for the variation which was the subject of the present inquiry.

6. Dr Kennett told me that the operating centre had been a “running sore” over the years as far as local people were concerned and he believed that local people had failed to notice the advertisement concerning larger vehicles being used at the site. He did not wish the business ill but the operating centre was in a rural area and the lane leading to the site was unsuitable. Previous Traffic Commissioners had commented on the environmental nuisance caused and said that they were puzzled that the site had been allowed to develop as it had. There was only one proper passing place in the lane which is narrow and there is a blind bend near the entrance to the lane from the nearest highway. Visibility to the right for vehicles leaving the site was not good and he had experienced vehicles pulling out in front of him. He cited the case of *Norman Marshall Ltd v West Sussex County Council* 1999 L34/37/41 as authority to show that a Traffic Commissioner can view suitability as a whole and not subject to the limitation imposed in Section 21 of the Goods Vehicles (Licensing of Operators) Act 1995 (as amended).
7. Dr Kennett accepted that a new entrance to the site had been created and that matters had improved since then. In relation to the safety of the entrance I observed that sometimes drivers of goods vehicles have enhanced sight at the exit as they are higher in the cab and without a vehicle cab protruding. In answer he said that that the incidents of pulling out had been by cars.
8. Traffic Examiner Lister submitted her report and said that she had no concerns over the Operating Centre although she accepted that Rose Lane was quite narrow and that some large vehicles may trespass on the verges. She also agreed that visibility to the right when leaving the site was not good.
9. Mr Riley summarised the application for the operators saying that no complaints had been received and handed in a letter from local residents Mr and Mrs Abbott saying that “drivers from the operators under consideration have treated the road and residents with respect. We do not even hear them come and go” As regards the compliance issues he said that the partnership licence was to be surrendered and he would be able to assist as a transport manager in place or in addition to Lee Carpenter if required. He briefly outlined the potential consequences if regulatory action was taken.

## **Findings and Decision**

### **a) Compliance**

10. In determining culpability and seriousness of the level of non-compliance by the operators I have taken into account the otherwise good record and the circumstances surrounding the background to the use of vehicles which exceeded the weight limit permitted by the conditions set out on the licence. Having seen the letter dated 24 March 2016 sent to the Central Licensing Office by Lee Carpenter I accept as truthful his statement that he believed that this allowed the use of the 32 tonne vehicles because they would actually weigh less than 12.5 tonnes when they were unladen and at the operating centre. My conclusion that it was a misunderstanding rather than a deliberate disregard of the restriction is corroborated by the fact that the operators took immediate action to regularise the situation when the error was realised. In those circumstances whilst I find that there has been a breach of Section 26(1) (b) of the Goods Vehicles (Licensing of Operators) Act 1995 I am prepared to deal with the breach by a warning and to find that Lee Carpenter's repute as a transport manager is intact.

### **b) Environmental issues**

11. In considering the representations of Dr and Mrs Kennett and the variation application to increase authority to use 32 tonne vehicles I have had particular regard to the decision of the Upper Tribunal in Greaves Surveying & Engineering Limited 2008/335. At paragraph 7 of that decision the Tribunal states that they were satisfied that the Deputy Traffic Commissioner erred in his decision by wrongly interpreting the decision of Norman Marshall Ltd v West Sussex County Council 1999 L34/37/41. That case was distinguished on its' particular facts but the general rule is that "in the absence of any objection from the highway authority, the jurisdiction of the Traffic Commissioner is limited to consideration of access safety at the point the authorised vehicles first joined the highway and that otherwise the suitability of the highway and road safety were irrelevant considerations". Having reviewed the decision in the light of that determination the Tribunal went on to allow the operator to use the operating centre for two 26 tonne vehicles, which presumably was what the operator wanted, subject to other environmental conditions as to number of movements and out of the site and the timing of movements so as to limit other detrimental effects on local residents.

12. In the light of that decision and the evidence I received I do not find that there are sufficient admissible environmental grounds to refuse the application for variation and therefore allow the third condition on the licences held by JRC Haulage Limited and DLC Haulage (Kent) Limited to be changed from a restriction to vehicles not exceeding 12.5 tonnes to a restriction to vehicles not exceeding 32 tonnes. The differences that will follow from the increase of weight are not sufficiently relevant to the grounds which I am entitled to consider and in particular there will not be significant safety issues at the

entry/exit to the site as a result of higher weight vehicles being allowed. I accept the surrender of the partnership licence held by Debbie Linda Carpenter and Lee Royston Carpenter. In relation to Lee Carpenter as the transport manager on the remaining two licences I make no order requiring him to be removed as his repute remains intact as detailed above. If nevertheless he decides to resign these posts this will be an issue for him and on the information I have so far I indicate that Mr Riley would be a suitable replacement.

13. Finally I recommend that the operators continue to encourage an ongoing dialogue with local residents. It is apparent that Mr & Mrs Abbott who wrote in have been impressed by the behaviour of the operators and I observed the positive interaction between Dr & Mrs Kennett and the Carpenter family following the public inquiry. I urge that this approach is continued and that problems and issues are minimised as best they can be for both sides.



**John Baker**  
**Deputy Traffic Commissioner**

**23 March 2018**