



TRAFFIC COMMISSIONER FOR SCOTLAND

GOODS VEHICLES (LICENSING OF OPERATORS) ACT 1995

APPLICATION BY IAIN WILSON (DATE OF BIRTH 28/7/71) – OM2009032

PUBLIC INQUIRY HELD AT EDINBURGH ON 26 OCTOBER 2018

DECISION OF THE TRAFFIC COMMISSIONER

Background

1. By application, dated 19 October 2017, received at the Central Licensing Unit at Leeds on 4 December 2017, Iain Wilson (born 28/7/71) of Yard 1, Staffa Place, Dundee, DD2 3SX applied for a standard national goods vehicle operator licence to operate 2 vehicles and 3 trailers from the Yard 1, Staffa Place address. He nominated Mr James Cumming (born 1959) of West Ferry, Dundee, to be his external transport manager working 16 hours per week spread equally from Mondays to Thursdays. On the TM1 form, Mr Cumming declared licence OM1116969 for which he is transport manager. Safety inspections were proposed at 4 weekly intervals by Norscot, Dundee. In the application form, Mr Wilson described himself as a sole trader (though giving his position in the business as Managing Director of Iain Wilson Transport) and his business as haulier. He declared a drink driving conviction on 21 November 2013 but no other adverse matters.
2. A maintenance agreement was produced for 2 vehicles SV55 FKU and ST62 XOW, the former vehicle already subject to work by Norscot.
3. Evidence to claim the financial standing of £12,200 (2017 rates now £12,350) was provided by bank statements, with fluctuating levels and a then recent deposit. It was noted that the applicant was in receipt of remuneration from Breedon. Leeds caseworkers made various inquiries of the applicant during the processing of Mr Wilson's application.
4. Mr Wilson requested an interim licence stating, "I would like to apply for interim licence to start early as I supply drivers to Breedon Group and I now have the opportunity to purchase a truck from them and I can start to work for them on the 8.01.18. This is why I would like to apply for interim licence. Many thanks".
5. Mr Wilson failed to declare previous licence OM1092110 which was revoked in December 2014. In a response to the Leeds caseworker, he wrote that he had surrendered that licence in 2013 and the business was closed down. This previous licence was Gerald Clark and Iain George Thomas Wilson trading as D H Plant Haulage.
6. Records within the Office of the Traffic Commissioner in Edinburgh revealed that a section 43 certificate was issued on 28 June 2005 certifying that Iain George Wilson t/a

D & H Haulage, 23 Inchyra Place, Dundee, was neither holder nor applicant for an operator licence. On 8 November 2005, he was told of the need to get an operator licence. A further certificate was issued on 19 December 2005 and a further letter sent on 8 January 2006. More recently, a section 43 certificate was issued on 31 October 2017 that there was no licence granted in name of Ian Wilson/Ian Wilson Plant Hire of 1 Staffa Place, Dundee.

7. Iain Wilson and Gerald Clerk t/a D H Plant & Haulage, of Yard 2, Arrol Road, Dundee, held operator licence OM1092110. A letter of 8 September 2011 proposed the revocation of that licence and, absent reply, the licence was revoked – intimated by letter of 30 September 2011.

Public Inquiry

8. Given concerns over Mr Wilson's repute, I directed that this application be heard at Public Inquiry at which I would consider if the applicant could satisfy me of all of the requirements for an operator licence. A call up letter, dated 21 September 2018, and usual Inquiry brief were sent to the applicant. The attendance of the nominated transport manager Mr Cumming was required.
9. The narrative within the Inquiry brief refers to a driver conduct hearing on 13 August 2018 when a driver, Mr MacLachan gave evidence that he was working for Iain Wilson Plant Hire as a tipper driver and had been for 4 years
10. Given the financial information provided during processing of the application and given what had been said to me by a driver on 13 August about his employer, inquiries were made of Breedon Northern Ltd, the holder of an operator licence. Their transport manager replied on 11 and 19 October 2018. They also produced copies of documentation provided to Breedon by Mr Wilson. This correspondence was included in an Addendum to the Public Inquiry brief and issued to Mr Wilson. The Addendum also included extracts from Companies House relative to Ian Wilson Haulage Ltd of Workington in Cumbria.
11. As stated, the Public Inquiry was scheduled for 26 October 2018 and an addendum issued. On 23 October my Office received an email from Mr N Kelly, Solicitor, instructed by Mr Iain Wilson. He wrote that Mr Wilson's application for an operator's licence "is hereby withdrawn". That email was put to me. Mindful of the case law of *Thomas Muir [1999] SC 86; Alkaline Ltd TT 8/2000; and Davis Haulage Group Ltd T/2017/018* (which I could distinguish from the facts of this case), I directed that given the evidence contained within the Public Inquiry papers, I believed it to be a matter of regulatory importance as well as being in the public interest for the hearing to proceed as scheduled. This was intimated to Mr Kelly by email of 23 October and that the Public Inquiry would go ahead and that a failure to attend may result in my making a decision in Mr Wilson's absence.
12. There was no attendance by anyone at the appointed time for the Public Inquiry. Accordingly, I am making this decision without benefit of any oral evidence from Mr Wilson or any submissions on his behalf. Further, I am putting this decision in a full written decision.

Findings in Fact

13. From the Public Inquiry brief and Addendum, I draw the following findings in fact:
 1. Iain Wilson provided services to Breedon Northern Ltd of driver and plant operative hire in Tayside for some years. In 2015, Mr Wilson purchased an

HGV and from at least 14 September 2016 provided haulage services to Breedon Northern Ltd. Mr Wilson did this as an external party haulier invoicing Breedon Northern Ltd. At no point during this period did Mr Wilson hold a goods vehicle operator licence.

2. Mr Iain Wilson produced to Breedon Northern Ltd documents purporting to be extracts of official searches which named Ian Wilson Haulage Ltd, with a purported licence number of OM1133090 (SN) continuation date 31/12/2019 and Wilson Machinery Ltd OM1133090 (R) continuation date 31/10/2019. He also produced insurance documentation, dated 28 September 2015, for Iain Wilson Plant Hire from insurance brokers and a certificate of motor insurance for SV55 FKU name of policy holder Iain Iain (sic) Wilson Plant Hire effective 28/9/15.
3. The documents produced to Breedon Northern Ltd are false and were provided by Mr Wilson to Breedon to make that company believe that Mr Wilson held an operator licence.
4. There is a company Ian Wilson Haulage Ltd incorporated as Company No 03839057 on 10 September 1999, with a registered office address in Workington, Cumbria. The directors are Ian Edward Wilson (born 1969) and Samantha Jane Wilson and past directors are Helen Wilson and Thomas Alexander Wilson. At no time has Mr Iain Wilson been a director of Ian Wilson Haulage Ltd. The operator licence has an OC prefix.
5. The operator licence number of OM113090 is that of Wilson Machinery Ltd a restricted licence in force from November 2014; the directors of that company being Messrs John, William and Iain Wilson (b.1973) and which operates from Dalbeattie, Dumfries and Galloway.
6. The applicant Mr Iain Wilson has falsely represented to Breedon Northern Ltd that he held an operator licence and he has used the names of these genuine operators for the dishonest purpose of misleading Breedon Northern Ltd into giving him haulage work.

Considerations and my decision

14. Iain Wilson did not declare on this application that he had held a licence in the past – that is Iain Wilson & Gerald James Clark t/a D H Plant & Haulage OM 1092110 (a standard licence, with a 5 vehicle authorisation). That licence was in force from date of grant 25 January 2010 to the date of revocation of 30 September 2011. Fortunately, the Leeds caseworkers identified his past history and he was asked about it. The section 43 certificates and associated letters point to Mr Wilson having a rocky relationship with operator licensing. His past history would have merited a call to Public Inquiry but the further evidence of his actual unlawful operation and deceit made this Public Inquiry inevitable. Withdrawing an application cannot be used to hide his conduct from public or industry gaze. The compliant industry needs to be told and warned. That is recognised by case law such as *Alcaline*.
15. To gain an operator licence an applicant must show repute and satisfy other criteria. It is now very clear that Mr Iain Wilson is not a person who can be trusted with an operator licence and that I must exercise my gatekeeper function. I make an express finding that he has no repute given the unlawful operating, dishonesty and tendering of false documentation to Breedon. He has no place within goods vehicle operation. He has used the company names of reputable operators for his own devious purposes. He has offended against fair competition and road safety. He cannot be granted an operator licence in this or any entity. I refuse his application.

16. **Decision**

The application by Iain Wilson (date of birth 28/7/71) is refused as he does not have the necessary repute to hold a goods vehicle operator licence. Section 13(3) of the 1995 Act applies.

Joan N Aitken
Traffic Commissioner for Scotland

30 October 2018
Edinburgh