



WEST MIDLANDS TRAFFIC AREA

DECISION OF THE TRAFFIC COMMISSIONER

PUBLIC INQUIRY HELD IN BIRMINGHAM ON 30 AUGUST 2019

APPLICANT: ELLIS GROUP LTD

Decision

1. The application for a restricted goods vehicles licence for two vehicles, made by Ellis Group Ltd, is refused pursuant to Section 13D of the Goods Vehicles (Licensing of Operators) Act 1995.

Background

J Ellis Industrial Services Ltd

1. At a public inquiry on 26 February 2019 I revoked the restricted licence held by J Ellis Industrial Services Ltd. This decision was confirmed in writing by my office in a letter dated 1 March 2019. Essentially, I found that the company's sole director Joshua Ellis had embarked upon the business of HGV operations without the slightest idea of what he needed to do to comply with the various rules relating to vehicle maintenance and drivers' hours. While I did not disqualify Mr Ellis from applying for a licence in the future, I did stipulate in my decision that, for me to consider any application favourably in the future, he must **first** attend an operator licence management course.

Application by Ellis Group Ltd

2. It was with some surprise therefore that on 5 March 2019 I received an application for a restricted licence dated 28 February 2019 from Ellis Group Ltd, whose sole director is Joshua Ellis. He had not attended the operator licence management course which I had stressed he should do before making any future application. During the application process it was pointed out to Mr Ellis that he had not yet attended such a course. He eventually did so on 19 June 2019.

Public inquiry

3. Because of Mr Ellis's previous licence history and his failure to attend the course that I regarded as the bare minimum in view of his complete ignorance of how to operate compliantly, I decided to consider the application at a public inquiry. This was held in Birmingham on 30 August 2019. Joshua Ellis attended for the company, and the company was represented by David Price, transport consultant. Also present was Steven Jones, a transport manager CPC holder whose services Mr Ellis intended to

employ to assist with compliance (in line with another stipulation of my March 2019 decision).

4. Mr Ellis said that he had reapplied quickly before attending an operator licence management course because he was aware that the application process could take several months. He had then had difficulty in finding a course at short notice.
5. I examined the bank statements provided for the period 1-29 August provided by the applicant and noted that the average balance over the period was around £[redacted], some way short of the £4800 required to support a restricted licence for two vehicles. I also noted with some concern that there had been [redacted] failed payments over the period owing to lack of funds in the account. These payments were to [redacted]. Mr Ellis said that a bounced payment by cheque of £[redacted] had been because he had failed to sign the cheque. Another cheque had been issued. However, I noted that the statement did not show any subsequent payment for £[redacted] nor would there have been sufficient funds in the account to have honoured it.
6. Mr Ellis further informed me that he intended to enter into a repair and maintenance leasing arrangement for new vehicles, if the application were granted. I noted that the quote provided by the leasing company referred to a deposit of £[redacted]. I asked Mr Ellis where such a sum would be coming from. He replied that he was expecting some large payments into the company's account.
7. I adjourned the inquiry to deliberate over the issues and reach a written decision.

Findings

8. After considering the evidence, I have reached the following finding:
 - i) the company lacks sufficient funds to support its application (Section 13D of the 1995 Act refers). Its average balance over the last 28 days is considerably short of the required amount and is clearly insufficient to cover current outgoings (viz the [redacted] failed payments) even without the extra expenditure which the acquisition and running of a vehicle or vehicles will involve.

Offer of finance undertaking

9. The applicant offered a finance undertaking, but Mr Ellis's previous company offered just such an undertaking in late 2017 when its licence was granted. It failed to supply the required financial information by the due date and had to be chased. When the information was eventually forthcoming, three months late, the company could not demonstrate sufficient finances. In the light of this history, I am not prepared to accept a finance undertaking this time round.

Decision

10. As Ellis Group Ltd does not have sufficient funds to support its application, I am refusing that application under Section 13D of the 1995 Act.



Nicholas Denton

Nicholas Denton
Traffic Commissioner
2 September 2019