



**Neutral Citation Number: [2025] UKUT 103 (AAC)
Appeal No. UA-2024-001332-T**

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER
TRAFFIC COMMISSIONER APPEALS**

**ON APPEAL from the DECISION of the TRAFFIC COMMISSIONER for the EAST
OF ENGLAND dated 20th September 2024**

Before: HHJ Beech, Judge of the Upper Tribunal
David Rawsthorn, Specialist Member of the Tribunal
Craig Barker, Specialist Member of the Tribunal

Appellant: CONNECT HIGHWAYS LIMITED
Commissioner's ref: 0F2075434

Hearing date: 11th March 2025
Mode of hearing: Attended
Heard at: Field House, Breams Buildings, London, EC4A 1DZ

Representation:
Appellant: Alec Smith, Director accompanied by Mr Waterman

Decision Date: 25th March 2025

SUMMARY OF DECISION

This appeal is DISMISSED.

The Traffic Commissioner's decision to refuse the Appellant's application for a standard national operator's licence involved neither error of law or mistake of fact, as per the test in *Bradley Fold Travel & Peter Wright v Secretary of State for Transport* (2010) EWCA Civ.695..

KEYWORD NAME: 100.1 Applications

Please note the Summary of Decision is included for the convenience of readers. It does not form part of the decision. The Decision and Reasons of the judge follow.

DECISION

The appeal is dismissed

REASONS FOR DECISION

Introduction

1. This is an appeal from the decision of the Traffic Commissioner for the East of England ("TC") dated 20th September 2024, when he dismissed the Appellant's application for a standard national operator's licence under s.13(5) of the Goods Vehicles (Licensing of Operators) Act 1995 ("the Act").

Factual background

2. The background to this appeal is as follows. On 12th July 2024, the Appellant ("Connect") applied for a standard national licence authorising two vehicles and two trailers at an operating centre at J A Wyard Depot, Beaconsfield Road, Ipswich. The nominated transport manager was Alec Smith who was also the sole director of the company. The accompanying transport manager form nominating Mr Smith was not accompanied with the original copy of Mr Smith's certificate of professional competence ("CPC") but rather a traffic management qualification by Lantra.
3. On 18th July 2024, the Office of the Traffic Commissioner ("OTC"), wrote to Connect to notify the company that its application was incomplete for the following reasons:
 - There was no advert submitted in support of the application.
 - The nominated transport manager's original certificate/s of professional competence in road haulage was required.
 - A written explanation, with supporting evidence, about how the company had been meeting its transport needs since its incorporation on 16th September 2021, including the weight of vehicles used or details of any third party used to provide transport.

Connect was given until 1st August 2024 to respond to the letter and was warned that failure to provide all of the information requested may result in the application being refused. In response to the letter, Connect submitted a compliant advertisement.
4. On the 13th August 2024, the OTC wrote to Connect again. The letter was intended as a final attempt to resolve the issues raised by no later than 27th August 2024. Connect was warned that if by that date, the application

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remained incomplete, the application would be refused. The following outstanding documentation was required:

- Mr Smith's original CPC.
- A written explanation with supporting evidence, about how the company had been meeting its transport needs since its incorporation on 16th September 2021, including the weight of vehicles used or details of any third party used to provide transport.
- An aerial image of the proposed operating centre showing the location of the site in relation to the surrounding area and parking spaces for the requested authority. It had not been possible to determine the location of the site from internet searches and the traffic commissioner needed to be satisfied that the site was suitable for use.

It appears that in response, Connect resubmitted the compliant advertisement.

5. By a letter dated 20th September 2024, the company's application was refused under s.13(5) of the Act for the following reasons:

- In the absence of a CPC in the name of Mr Smith, the TC could not be satisfied that the company had nominated a suitable transport manager meeting the requirements of paragraph 14A(1) and (2) or 14A(1) and (3) of Schedule 3 of the Act as set out in s.13A(3) of the Act.
- No written explanation had been received of how the company had been meeting its transport needs since its incorporation.
- No aerial image of the proposed operating centre had been provided and it was therefore impossible for the TC to be satisfied that the proposed operating centre was available to the company as required under s13(C)(5) of the Act or that the proposed operating centre had enough space as required under s.13C(6) of the 1995 Act.

Legal framework

6. By s.13(5) of the 1995 Act, a Traffic Commissioner **must** refuse an application for a standard operator's licence if the applicant has failed to satisfy any of the requirements of sections 13A and 13C of the Act and in particular, the requirement of being professionally competent (s.13A(3)) and the requirement that the proposed operating centre is available and suitable for use as an operating centre (s.13C(5) and that it has sufficient capacity to provide an operating centre for all the vehicles under the licence (s.13C(6)).

The grounds of appeal and the parties' submissions

7. The main thrust of Connect's appeal was that the application for a licence had been made by a member of the office staff who was unaware of the statutory

requirements to be met in order to be granted a licence. When filing the Appeal Notice, the same member of staff had attached to it, the aerial photograph which had been requested by the OTC without any explanation as to why it had not been provided to the OTC when requested and a further copy of Mr Smith's Lantra qualification. Mr Smith accepted that he (and the member of staff) were unaware of the legal requirements and of the existence of certificates of professional competence. He did not possess one. He accepted that in the circumstances, the application before the TC was bound to fail.

Analysis

8. It was explained to Mr Smith that the jurisdiction of the Tribunal is one of review rather than rehearing and that in the circumstances, the appeal was bound to fail. It became clear during Mr Smith's representations that in fact, the company only used its vehicles to carry its own goods. He was unaware that in the alternative to a standard licence, a restricted operator's licence could be applied for in those circumstances.

Conclusion

9. Taking all the circumstances into account, we are not satisfied that there was any procedural unfairness in this case or that the TC's decision was plainly wrong in any respect and neither the facts nor the law applicable should impel the Tribunal to allow this appeal as per the test in *Bradley Fold Travel & Peter Wright v Secretary of State for Transport (2010) EWCA Civ.695*. The appeal is dismissed.

**Her Honour Judge Beech
Judge of the Upper Tribunal**

Authorised by the Judge for issue on 25th March 2025