



**Neutral Citation Number: [2025] UKUT 261 (AAC)**  
**Appeal No. UA-2025-000414-T**

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

**ON APPEAL from the DECISION of the TRAFFIC COMMISSIONER for the SOUTH  
EAST AND METROPOLITAN AREA OF ENGLAND dated 13<sup>TH</sup> March 2025**

**Before:** HHJ Beech, Judge of the Upper Tribunal  
Stuart James, Specialist Member of the Tribunal  
David Rawsthorn, Specialist Member of the Tribunal

**Appellant:** PAUL PHILLIPS trading as I DO PLUMBING, I DO  
WASTE MANAGENT

**Commissioner's ref:** 0k2079560

**Hearing date:** 29<sup>th</sup> July 2025  
**Mode of hearing:** CVP  
**Heard at:** Field House, Breams Buildings, London, EC4A 1DZ

**Representation:**  
**Appellant:** Paul Phillips

**Decision Date:** 4<sup>th</sup> August 2025

**SUMMARY OF DECISION**

**This appeal is DISMISSED.**

The Traffic Commissioner's decision to refuse the Appellant's application for a restricted 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.695n nor were there any procedural irregularities or unfairness.

**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 South East and Metropolitan area of England ("TC") dated 13<sup>th</sup> March 2025, when the Appellant's application for a restricted operator's licence was refused 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 20<sup>th</sup> January 2025, the Appellant ("Mr Phillips") applied for a restricted operator's licence authorising one vehicle to be kept on the driveway of his home at 32 Village Way, Beckenham, BR3 2NP. On 21<sup>st</sup> January 2025, Mr Phillips applied for an interim licence.
3. On 27<sup>th</sup> January 2025, the Office of the Traffic Commissioner ("OTC"), wrote to Mr Phillips to notify him that his application was incomplete for the following reasons:
  - There was no advert attached to the application.
  - No evidence of financial standing had been submitted. The letter set out the types of financial documents which would be acceptable including evidence of overdraft facilities, building society statements and unused balances on credit cards. A link to the Senior Traffic Commissioner's statutory guidance and directions was provided to assist Mr Phillips.
  - As the proposed operating centre was a residential property, further details needed to be provided to satisfy the TC regarding the suitability of the site and in particular, an aerial map was required indicating where the vehicle would be parked and showing the entrance and exit from the public highway including confirmation that the parking spaces at the property were available for Mr Phillips' exclusive use and confirmation that the vehicle could enter and exit

the proposed site in forward gear at all times. In the alternative, an alternative operating centre could be nominated.

Mr Phillips was given until 10<sup>th</sup> February 2025 to respond to the letter and was warned that failure to provide all the information requested may result in the application being refused.

4. In response, Mr Phillips emailed the OTC, stating that as the nominated vehicle was a Ford Transit 470, which was “*just over the weight class of 350*”, parking at his home would not be a problem. He was advised that a site plan was nevertheless required along with aerial photographs. The photographs were received. Mr Phillips queried “*what kind of site plan are you after?*” On 3<sup>rd</sup> and 17<sup>th</sup> February 2025, Mr Phillips pressed for an answer with regard to his application for an interim licence. He sent a copy of a letter from his vehicle insurers demonstrating that they required Mr Phillips to obtain an operator’s licence. He submitted a compliant advertisement.
5. The financial standing documents submitted by Mr Phillips to establish that he had sufficient funds to maintain the proposed vehicle (£3,100) consisted of:
  - His 2024 tax return with a set of unaudited accounts attached and whilst they recorded a profit, they showed liabilities which were far in excess of the assets.
  - Online bank statements from 25<sup>th</sup> December 2024 to 27<sup>th</sup> January 2025. The identity of the holder of the account was missing from the statements. They clearly showed that other accounts existed, for example, at least one in the name of Mr Phillips and one in the name “I do Plumbing”. The bank statements did not show adequate funds as an average or final balance by a significant margin.
6. On 5<sup>th</sup> March 2025, Mr Phillips pursued his application for an interim licence. He was advised that as he had chosen a residential property as his operating centre, consideration needed to be given to the road which the vehicle would use to pull out onto and whether the vehicle could enter and exit in forward gear.
7. On 6<sup>th</sup> March 2025, a case worker recommended to the TC that the application for an operator’s licence and interim licence be refused upon the basis that:
  - a) The proposed operating centre consisted of a driveway of a residential address and would require the nominated vehicle to be reversed into position and would require manoeuvring in the middle of the road.
  - b) Whilst the house had a double driveway, the photographs showed Mr Phillips’ 3.5 tonne Ford transit van parked on the driveway. It appeared that the vehicle overhung onto the public pathway. A larger vehicle may cause more of an obstruction.
  - c) If a car was parked next to the vehicle on the drive, there would be little to no room to carry out the daily walk round checks.

d) Neither the unaudited accounts nor the bank statements showed adequate funds and the shortfall was significant.

It was further noted that the trading name “*I do waste management*” might indicate that a restricted licence was not appropriate and that if a further application were to be made, additional information would be required. The TC agreed with the submissions.

8. By a letter dated 13<sup>th</sup> March 2025, Mr Phillips’ application was refused upon the above basis.

### **Legal framework**

9. By s.13(5) of the 1995 Act, a Traffic Commissioner **must** refuse an application for a restricted operator’s licence if the applicant has failed to satisfy any of the requirements of sections 13C of the Act and in particular, the requirement that there be satisfactory arrangements for maintaining vehicles in a fit and serviceable condition; that the proposed operating centre must be available and suitable for use as such; that the facilities and arrangements for maintaining vehicles in a fit and serviceable condition is not prejudiced by reason of the applicant having insufficient financial resources for that purpose.

### **The grounds of appeal and the parties’ submissions**

10. The main thrust of Mr Phillips’ grounds of appeal is that he had purchased a Ford transit 470 to replace a 350 Ford transit in order to comply with the ULEZ regulations. He asserted that they were identical vehicles save that the 470 was slightly heavier. He could not understand why he could not use his driveway to park the replacement vehicle when he was able to use it to park the 350 vehicle. He had sent to the Tribunal bank statements for an alternative bank account post-dating the TC’s decision which Mr Phillips maintained demonstrated the necessary financial standing. Again, the holder of the bank account cannot be ascertained from the documents and on any view, these statements do not demonstrate an average or closing balance of £3,100. He advised that he had other bank accounts which have better balances. He did not explain why he had not relied upon one or more of those to support his application. He further informed the Tribunal that he now had a parking space at his maintenance provider but did not have any evidence from the landlord confirming the position. But in any event, even if this new evidence were of assistance to Mr Phillips, we are unable to take it into account by reason of paragraph 17(3) of Schedule 4 to the Transport Act 1985. Mr Phillips informed the Tribunal that he had assumed that he had now done everything that he needed to do and questioned why there was no leeway in the decision making process.

### **Analysis**

11. Upon the evidence that was before the TC, his decision to refuse the application was plainly right. We cannot find any aspect of the application process to be deficient or unfair. There was no error of law. This appeal was bound to fail. In the event that Mr Phillips decides to make another application, he would be wise to read the guidance notes available to him prior to making the application and to read the correspondence that will be sent to him from the OTC, which clearly sets out what is required of him.

**Conclusion**

12. 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 4<sup>th</sup> August 2025