



NCN: [2021] UKUT 77 (AAC)  
T/2020/063

**IN THE UPPER TRIBUNAL  
ADMINISTRATIVE APPEALS CHAMBER**

**Before:** Upper Tribunal Judge H. Levenson  
**Appellant:** Heritage Trade Frames Ltd  
**On Appeal from:** Traffic Commissioner for the North East of England  
**Reference:** OB 2034916  
**Decision Letter:** 2<sup>nd</sup> September 2020  
**Appeal to UTAAC:** 12<sup>th</sup> October 2020

**DECISION OF THE UPPER TRIBUNAL  
(ADMINISTRATIVE APPEALS CHAMBER)  
ON AN APPEAL AGAINST THE TRAFFIC COMMISSIONER FOR THE  
NORTH EAST OF ENGLAND**

**Decision**

1. **This appeal does not succeed.** I confirm the decision of the Traffic Commissioner (“the Commissioner”) under reference **OB 2034916** and communicated to the appellant in a letter dated 2<sup>nd</sup> September 2020. That decision is to the effect that the relevant application for an operator’s licence is refused. With the agreement of the appellant (“the company”) I have not held an oral hearing but have dealt with the matter on the basis of considering the papers and sitting alone.

**The Decision Under Appeal**

2. The operative parts of the letter of the letter of 2<sup>nd</sup> September 2020 (signed by one of the Commissioners’ officials) read as follows:

“I refer to your application for an operator’s licence and my letters dated 10<sup>th</sup> July & 10<sup>th</sup> August 2020 requesting additional supporting documentation before your application was submitted to the Traffic Commissioner for determination.

The deadline set in my last letter has now expired and I must now advise you that the Traffic Commissioner has refused your application under section 13 of [The Goods Vehicles (Licensing of Operators) Act 1995], given that it remains incomplete following your failure either to supply the supporting documentation listed in the annex attached to my last request or offer any explanation as to why you were unable to do so.

The rest of the letter refers to rights of appeal and reminds the appellant that it cannot lawfully operate vehicles which require an operator's licence until such a licence has been granted.

3. As far as I am aware the requested documentation has never been supplied.

### **The Grounds of Appeal**

4. The grounds of appeal as set out on form UT12ENG relate to the covid pandemic. They are that during the relevant period prior to the first deadline the Commissioners' office was unable to take telephone calls and correspondence had to be by email, the company was experiencing severe operational problems and restrictions, with several key workers working from home with a very limited IT function. Prior to the final deadline the business had to be fully closed due to isolation. By the time of the return to work the Commissioner's decision had already been made.

5. I note in particular that there had been no application to extend the time in which to reply, or any effort to inform the Commissioners' office, by any means, of what was happening.

### **Background and Procedure**

6. The appellant, Heritage Trade Frames Ltd, is a limited company based in Gateshead in the manufacturing sector. On or about 8<sup>th</sup> July 2020 it submitted an application for a restricted goods vehicle operator's licence for one vehicle. The application was acknowledged on 10<sup>th</sup> July 2020. The letter of acknowledgement requested further information to be supplied by 24<sup>th</sup> July 2020. The information related to financial evidence, proof of advertisement and information on how the company had been meeting its transport needs. On 2<sup>nd</sup> September 2020 the Commissioners' office sent the letter to which I have referred in paragraph 2 above.

7. On 12<sup>th</sup> October 2020 the company appealed to the Upper Tribunal against the decision made by the Commissioner. The appeal was late but on 3<sup>rd</sup> December 2020 was admitted out of time by Upper Tribunal Judge Hemingway.

### **Conclusions**

8. I appreciate the problems facing the company but at all stages it was a long way from being able to establish suitability for the grant of the licence. It was able to submit the application for a licence but did not submit financial information or proof of advertisement at that stage. If it was not possible to continue company operations for a time, or to deal with regulatory requirements, it is difficult to see how the company would be able to meet the conditions of a licence. In all of the circumstances the decision of the Commissioner was reasonable and proportionate and, by that stage, perhaps inevitable, and I see no basis on which to interfere with it.

**H. Levenson**

**Judge of the Upper Tribunal**

24<sup>th</sup> March 2021