



**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Appeal No. UA-2022-001378-T

On appeal from the Decision of Richard Turfitt, Traffic Commissioner for the East of England dated 9th September 2022

ROBERT BROW

Appellant

Before: Her Honour Judge Beech Upper Tribunal Judge
Specialist Member of the Upper Tribunal David Rawsthorn
Specialist Member of the Upper Tribunal Richard Fry

Hearing date: 7th March 2023

Representation:
Appellant: The Appellant appeared in person

DECISION

The appeal is DISMISSED

Subject Matter: Refusal to grant a restricted operator's licence. Whether the Appellant had provided all relevant information to satisfy the Traffic Commissioner that he was not unfit to hold a licence and that he had satisfactory facilities and arrangements for maintaining vehicles in a fit and serviceable condition

Cases referred to: Bradley Fold Travel & Peter Wright v Secretary of State for Transport (2010) EWCA Civ.695.

REASONS FOR DECISION

1. This is an appeal from the decision of the Traffic Commissioner for the East of England (“TC”) dated 15th September 2022 when he refused the Appellant’s application for a restricted operator’s licence under s.13B and 13C(4) of the Goods Vehicles (Licensing of Operators) Act 1995 (the 1995 Act”)

Background

2. The background to this appeal can be found in the appeal bundle and the transcript and is as follows. The Appellant (“Mr Brow”) has the following operator licence history:
 - He was the sole director of Melpot Trading Limited which held an operator’s licence. Continuation of the licence was not sought in June 2014 and the licence lapsed
 - He was also the sole director of CS&G Plant Hire Limited which held an operator’s licence. The company went into compulsory liquidation on 5th August 2013 and the company was dissolved on 7th July 2014. The licence was revoked the following day
 - He was also the sole director of Glossie Limited (“Glossie”) which held a restricted operator’s licence. Continuation of the licence was not sought on 31st December 2019 and the company’s request that late payment be accepted was refused
 - Glossie then made an application for a new licence on 20th January 2020. This application was heard in a conjoined hearing with that of Bunny Transport Limited (“Bunny”) for the TC to consider regulatory action on that licence as well as considering the new Glossie application. Bunny had a condition on its licence that Mr Brow “*shall*” not have any involvement with the Bunny licence. The director of Bunny was Carol Grayling who was also the company secretary of Glossie. Bunny had been operating vehicles registered to Glossie from Glossie’s operating centre rather than from its own operating centre. The vehicles were in the livery of Camel Sand and Gravel which was an aggregate company operated by Mr Brow (previously known as CS&G Plant Hire Limited which had its licence revoked on 8th July 2014). There was no financial evidence that the vehicles were being hired from Glossie by Bunny and driver records showed that Mr Brow drove the vehicles on a very regular basis. The TC made significant adverse findings in respect of Bunny and Ms Grayling, particularly in respect of maintenance failings. The TC revoked the Bunny licence and disqualified Ms Grayling for 12 months. He refused the application of Glossie, finding that Mr Brow had failed to distinguish between companies and his own interests and that he intended to continue to operate the vehicles which had been so badly maintained by Bunny. In the event that Mr Brow wished to re-apply for another licence, he was urged to review his business arrangements and to ensure a clear demarcation between entities. Moreover, he needed to ensure that vehicles “*are in fact fit to be put back in operation*”.

3. On 18th June 2021, Mr Brow, as a sole trader, made an application for a sole trader restricted licence along with an application for an interim licence. Glossie was still shown on the Companies House website as “active” and Carol Grayling remained Company Secretary. On 7th September 2021, Mr Brow was asked for information about Ms Grayling’s likely role in his operation, the vehicles he intended to operate and how they were to be maintained. Mr Brow’s response was that Ms Grayling would have no role in the business and that he intended to operate one 7,500kg drop side vehicle and one 17,500kg drop side vehicle which would be maintained by HB Commercials at 8 weekly intervals.
4. On 18th October 2021, Mr Brow was notified of the TC’s intention to consider his application at a public inquiry. Mr Brow was then directed to submit by 24th November 2021, the following documentation:
 - i. Evidence showing access to the required finances;
 - ii. Details of the proposed maintenance system, including sample safety inspection records, the daily defect reporting system and the maintenance contract;
 - iii. Details of how he was to comply with the laws regarding drivers’ hours;
 - iv. Anything else which he thought might help show that he would be a compliant operator or the steps he was taking to address any failings identified.

It would appear from the bundle, that the only evidence provided to the TC was financial.

5. On 20th October 2021, Mr Brow then complained about the delay in the processing of his application and the failure of the TC to grant an interim licence. His complaint was answered on 22nd November 2021 by Ms Griffiths, Senior Team Leader who refuted Mr Brow’s allegations of “*delaying tactics*” and highlighted inconsistencies between Mr Brow’s account of how his application had been dealt with and the documentation that existed.
6. The public inquiry took place on 8th December 2021. Mr Brow produced:
 - An RHA Preventative Maintenance Inspection sheet in the name of “Camel Sand” dated August 2018. That company was owned by Mr Brow and its operator’s licence had been revoked in 2014 (CS&G Plant Hire) Ltd. The maintenance contractor was Auto Plant Car & Commercial Repairs
 - A blank page from a Driver Defect book
 - An alternative daily driver defect sheet dated 30th April 2018 which advises “Report any defects to Carol Grayling”.
 - A screen shot of a wall planner taken from the website Amazon.co.uk.
7. The hearing was conducted by Deputy Traffic Commissioner Davies (“DTC”). At the outset of the hearing, Mr Brow confirmed that his maintenance providers were to be HB Commercials. He was a director of three companies which did not hold an operator’s licence and had been a director of companies

which had been dissolved. He confirmed that Glossie was still a “live” company. He told the DTC that he wanted a licence for his own business purposes and he accepted that TC Turfitt had stated that Ms Grayling should have no involvement. However, she was company secretary of Glossie; she was not the company secretary of Robert Brow. It was “*clear cut*” that he was applying for a licence for “*Robert Brow to operate*” without any involvement of Ms Grayling. He needed the licence to convert and develop holiday cottages. Glossie ceased to trade after its licence lapsed or rather, that it was doing little or no work “*at the moment at all*” as Ms Grayling was not supposed to have anything to do with his businesses which meant that he must trade on his own. He claimed that he had closed the business or rather he had “*put it to sleep*” but he could not fire an employee. The DTC then moved on without exploring Mr Brow’s account.

8. Mr Brow confirmed that he had been involved in operator licencing since he was 20 years old. He had held a transport manager CPC for 5 or 6 years and had attended an operator’s management course about 8 years prior to the hearing. He did not have any vehicles in possession but intended to buy two flat bed vehicles. The hearing then went into a private session and the transcript of that was not included in the public inquiry bundle so the Tribunal does not know what was said by Mr Brow whilst finances were being considered.
9. The DTC then turned to maintenance. Mr Brow told the DTC that he had taken the sample a driver defect reporting page (“DDR”) from a book. Mr Brow considered it to be straightforward (he was not asked about the alternative DDR sheet which was annotated with “*Report any defects to Carol Grayling*”). The DTC asked about audit checks of the DDR system and it was clear that Mr Brow did not understand the question. He thought that the act of him looking at a DDR sheet when handed in and then arranging for HB Commercials to undertake the necessary repairs was the “*audit*” referred to. When asked again about audits, he stated that once the maintenance “*report*” was returned to him, he would then send it off “*to the examiners*” as he thought that this was the procedure. When pressed again about audits of the drivers’ defect reporting system, he then referred to the audit of drivers’ driving licences. At the end of a long exchange about an audit check, it was clear that Mr Brow did not understand what the DTC was talking about. As for training to undertake DDRs, it would be Mr Brow or his training provider, DMP Training who would deliver that and he would ensure that the drivers’ CPCs were up to date.
10. The DTC then moved onto other areas:
 - Tyre checks and replacement in addition to torqueing would be undertaken by KM Tyres as “*that’s what they’re doing*”. Mr Brow was not asked to explain this comment in view of his assertion that he was not operating vehicles. Mr Brow volunteered “*we have these indicators on the tyres’ nuts*”. Again, this comment was not explained
 - He would be using drivers who knew about building and how to operate different types of machinery. He would be one of them
 - Mr Brow did not know what an OCRS score was

- As for a Driver's Handbook, Mr Brow stated that he had one but had not brought it with him
 - When asked what steps he would take if a vehicle was VOR'd, he simply said that he would park it in the caged area where the two vehicles were to be kept at the operating centre. He did not mention VOR signs or notices placed in the vehicle folder and neither was he asked about that aspect of the VOR system
 - He told the DTC that the PMI sheet that had been completed by Auto Plant Car & Commercial Repairs was the type of sheet used by HB Commercial (although there was no evidence of that). When pressed, he stated that he could not say whether HB Commercials would be using that PMI sheet; it was just a copy of a PMI form which had been "approved"
 - He was not aware of the new rules concerning the keeping of records about the age of tyres but thought that this would be covered by having tyre contractors involved
 - Brake testing would take place at every PMI. He could ask HB Commercials to do a laden check although he appeared not to understand the significance of those checks
 - As for drivers' hours, he did not think that the vehicles would ever accumulate more hours than the drivers were allowed to drive. Mr Brow did not appreciate that other work, such as building work needed to be taken into account when calculating a drivers' hours and he was not pressed upon the matter
 - "They" would be using Clock Watch for analysis of drivers' hours. He would be responsible for downloading the vehicles data once a month
 - Mr Brow had not seen the Guide to Maintaining Roadworthiness
 - The operating centre was a "massive" concrete pad at Manor Farm, Henley which was used as an operating centre by another haulier with 3 vehicles. Mr Brow intended to keep his vehicles in a locked cage. There was no photographic evidence to show whether the operating centre was suitable, and the DTC did not request information about the site's entrance and exit to the public highway. Moreover, there was no evidence that Mr Brow had permission to park at the Farm. This was not pursued by the DTC
 - The screen shot of the wall planner was referred to. This is the planner that Mr Brow would have on his office wall which would be used to log MOT tests and PMI dates. No other key dates were mentioned.
11. Following a short break, the DTC returned and explained to Mr Brow that some of his answers to her questions were incorrect or demonstrated that he needed to refresh his CPC knowledge. She was concerned that Mr Brow had not heard of the Guide to Maintaining Roadworthiness although he then interjected stating that he had in fact seen the Guide. Having been informed that Mr Brow held a transport manager CPC, the DTC had expected his knowledge to be better than it was and whilst a restricted licence did not

require a transport manager, the transport operations had to be managed. She then asked Mr Brow what his suggestions were to progress his application in view of the “*quite glaring knowledge gaps*”. He asked for more time to update his knowledge but he did not accept that brake testing was his responsibility (which indicated a lack of understanding about what his responsibilities were in ensuring adequate brake testing was undertaken and printouts provided).

12. The DTC then gave an ex tempore decision. There isn't a transcript of her reasoning but there are detailed notes in the appeal bundle which read as follows:

“Due to knowledge gaps in critical areas i.e. brake testing, audits of drivers and general awareness of key documents providing essential guidance such as the Guide to Maintaining Roadworthiness, I have given this application the opportunity to update his knowledge. He holds a CPC TM qualification which needs updating. Finance has been met in full. I am satisfied on the evidence heard that there is a clear separation of entity from Glossie Ltd or its directorship. Glossie Ltd has all but ceased to trade.

I hold my decision in abeyance to allow the Applicant to complete a total of 3 days (no less) courses comprised of

- (1) A 2 day CPC TM refresher course and*
- (2) A one day Managing Operator Licence course or equivalent.*

To be completed by the 31 Jan 2022. Original certificate sent to the OTC for my attention no later than 4pm 9 Feb 2022.

Applicant should also send copies of the following by the same date for my consideration

- (1) Wall planner with intervals for PMI, MOT, Insurance etc marked;*
- (2) Maintenance Contract;*
- (3) PMI sheets to be used not hypothetical document;*
- (4) Driver Company handbook that would be given to drivers.”*

It is of note at this stage that from the reference made by the DTC to Glossie and directorships, she appeared to have misunderstood that Mr Brow was the sole director of Glossie and that Carol Grayling was the company secretary, not a director. The DTC did not refer to Ms Grayling during her decision at all although it is Mr Brow's involvement with Ms Grayling that troubled the TC in 2020.

13. At some stage following the public inquiry, the DTC left the jurisdiction and was unable to log onto VOL or consider any documentation lodged by Mr Brow. It was only in February 2022, that she advised that she would not be returning to the jurisdiction until about mid-April 2022.
14. In the interim, on 15th December 2021, Mr Brow sent a hard copy of a template of a driver's handbook to the OTC. He wished to know whether the DTC was happy for this to be used as it was supplied by AVIVA, his insurance company. The Note accompanying the handbook template stated as follows:

“It is hoped that the information presented in this document should give sufficient guidelines to enable you to produce your own Goods Vehicle Drivers

Handbook. However, there are also a number of aspects of driver information or procedure where there is a need for individual company considerations or supporting information before developing policies for advice for drivers.

The following pages contain headings and suggested paragraphs that should assist in formulating a Goods Vehicle Drivers Handbook. The aim of this handbook is to inform drivers of your Company's requirements, rules and regulations with regard to the operation of vehicles and provide operational information and procedures. ...

This document is to be used as a suggested base template only. The wording that appears in red is for guidance only. The templated wordings will not apply to every company and should not be relied upon or construed as advice. There may be information omitted that could be deemed necessary from an individual company or statutory perspective. ..."

The handbook provided, was entitled "A. N. Other Ltd" and there was provision to add a company logo. "A. N. Other Ltd" appeared throughout the template and it was clear that Mr Brow had either failed to read or to follow the advice contained in the Note accompanying the template. On 14th January 2022, Mr Brow sent the following to the OTC:

- A certificate confirming his attendance on a two-day transport manager refresher course and another confirming his attendance on a one day Managing Operator Licencing course
- A wall planner provided by HB Commercials with provision for logging relevant dates for insurance, MOTs, inspections and services
- A Maintenance Contract with HB Commercials dated 20th December 2021 which was signed by the contractor but not by Mr Brow
- Pages 92 to 107 of the Guide to Maintaining Roadworthiness which included: Annex 3A "Example of a driver's vehicle defect report (goods vehicle); Annex 3B "Example of a driver's vehicle" (PSV); Annex 4A "Example of a safety inspection"; Annex 4B "Example of a safety inspection record (PSV); Annex 5 "Example of a maintenance agreement"; Annex 6 "Specimen maintenance planner"; Annex 7 "Useful addresses"; Annex 8 "HGV driver walkaround check"; Annex 9 "PSV driver walkaround check". There was no explanation from Mr Brow as to why he considered these documents to be relevant to his application.

15. Mr Brow did not hear further from the OTC and complained to the Secretary of State for Transport, Grant Shapps MP on 21st February 2022 (who has no jurisdiction over TCs). By a letter dated 1st March 2022, John Fuzeland, of the Traffic Commissioners' Corporate Office, informed Mr Brow of the unexpected absence of the DTC until April 2022 and that in her absence, the TC was unable to determine Mr Brow's application and was unable to review his case and the documentation. In order to progress the matter, the TC had given instruction that he was minded to grant an interim licence for a limited period which would assist Mr Brow to commence operations, pending the full determination of his application. The grant of the interim licence did not indicate that Mr Brow's application would be granted in full.

16. The OTC wrote to Mr Brow on 2nd March 2022 notifying him that his interim licence had been granted until 1st July 2022. The letter informed Mr Brow:
- “The interim will allow you the opportunity to demonstrate use of the preventative maintenance inspection (PMI) forms and to lodge copies, along with all the other documents that the Deputy Traffic Commissioner requested at the hearing in December 2021.*
- As a reminder, you are to provide the following documents:*
- *A copy of the signed maintenance contract (the copy submitted in January was unsigned)*
 - *A copy of the driver handbook provided to your driver(s)*
 - *The PMI sheets and driver defect reports used during the interim period*
- I can confirm that we already have copies of your certificates of training and the forward (wall) planner”.*
17. On 9th March 2022, Mr Brow emailed Ms White, his allocated case worker, attaching a signed maintenance agreement with Taylor Commercials Limited. He advised that he had spoken to both Taylor Commercials and HB Commercials and they confirmed that they used the online system “R2C Online” for their maintenance records and services which he would have to download. He referred to the specimen drivers’ handbook he had provided to the OTC in December 2021 and noted that he had not received a response to his enquiry whether it was acceptable. It is of note that Mr Brow did not enclose a signed maintenance contract with HB Commercials although it appeared that he was proposing to use both HB Commercials and Taylor Commercials.
18. On 3rd May 2022, the OTC wrote to Mr Brow requesting the remainder of the documents requested by the DTC by 16th May 2022, namely, a copy of the driver handbook provided to his drivers, maintenance inspection sheets and driver defect reports used during the interim period. Mr Brow responded advising that he had not been operating vehicles on the interim licence as he did not have any and as a consequence there were no records to provide to the OTC. He repeated that once he commenced operation, Taylor Commercials would be using the R2C website for the PMI records (he did not explain why such an inspection sheet could not be printed and sent to the OTC for approval). He repeated his assertion that he had sent his handbook to the OTC requesting confirmation that this was “OK”. Later that day, he confirmed that the specimen handbook would be the one provided to his drivers.
19. On 21st July 2022, the OTC wrote to Mr Brow advising him that as a result of insufficient documentation, his application had been submitted to the TC. Mr Brow was reminded that the purpose of the interim authority was to allow him an opportunity to demonstrate use of the PMI forms and enabling him to lodge copies with the OTC, with reference to other documents to be lodged. Mr Brow had now indicated that the interim may not have been required and as a result, the TC wondered whether Mr Brow wished to pursue his application. If he did, a number of undertakings were proposed which if given, may give

grounds for an extension of the time limited interim. However, if operations did not commence so as to provide a basis for substantive grant, his application would be refused. The undertakings related to laden roller brake testing, the provision of financial evidence and an independent audit. Mr Brow was given to 4th August 2022 to respond.

20. Mr Brow then confirmed in an email dated 27th July 2022 that he wished to pursue his application and that he now wished to add an additional operating centre to his application. In response, the OTC reminded Mr Brow of the request for undertakings. Mr Brow then agreed.
21. On 2nd August 2022, the OTC queried whether Mr Brow's original nominated operating centre was still available for him to use. Mr Brow's response was that when he had applied for an operator's licence, he had been told that it would take 13 weeks. The process had now taken over a year and he had lost the original operating centre as a result. He continued: *"I could ask but what would I tell them this time. The new place is available now"*. By a letter dated 16th August 2022, Mr Brow was informed that to change the operating centre at this stage required an application and a published advertisement within 21 days of the application. This requirement could not be met as the application was made in June 2021. In the circumstances, Mr Brow would have to restart the process and make a new application and this present application would be marked as refused. Mr Brow responded the following day *"I will keep the operation centre where it is as it can not be moved as per your letter"*.
22. On 31st August 2022, Mr Brow was informed that the TC remained to be satisfied under the following sections of the 1995 Act:
 - S.13B that he was not unfit to hold a licence
 - S.13C(4) that he had satisfactory facilities and arrangements for maintaining vehicles in a fit and serviceable condition
 - S.13C(5) – that he had an operating centre which was available and suitable for that purpose
 - S.13C(6) – that he had an operating centre which was sufficient for all the HGVs used under the licence and which had been published in the centre's locality
 - S.13D – that he had sufficient financial resources to ensure that the vehicles could be maintained in a fit and serviceable condition.

Mr Brow was required to provide original bank statements covering the previous three months, along with up to date evidence that the operating centre at Manor Farm was available to him. A reply was required by 14th September 2022. It was further confirmed that a vehicle that Mr Brow wished to add to the proposed licence had been added although he was unable to operate it as the interim had expired.

23. In response, Mr Brow submitted evidence of finances and an email from “Katie” (not further identified) from “All Manor of Events” confirming that there was an allocated space at Manor Farm for Mr Brow to park two vehicles. The matter was referred to the TC who determined:
- “My previous decision indicated that I remained to be satisfied as against sections The onus was on the applicant and I allowed a final 14 days to resolve. The letter of 31 August referred to the areas to be addressed. The parking permission refers to allocated parking. It is unclear if this permanent. That might be clarified. I am told that finance has been shown for 1 vehicle. The approach to the application suggests either a lack of knowledge or possible lack of engagement, neither offers grounds to grant or satisfies sections 13B and 13C(4). Having been put on notice, with no further correspondence beyond what I have described, the application is refused under the remaining sections.”*
24. By a letter dated 15th September 2022, Mr Brow was informed that his application had been refused under s.13B and 13C(4) of the 1995 Act, the TC not being satisfied that he was not unfit to hold a licence and that he had satisfactory facilities and arrangements for maintaining the vehicles in a fit and serviceable condition.

The Appeal

25. By a Notice of Appeal dated 13th October 2022, Mr Brow appealed. His grounds of appeal were as follows:
- “My application was sent in on 18 June 2021.*
- All the requested documents were sent in and received.*
- At the public inquiry I was told to do two courses which were completed.*
- A interim licence (sic) granted for 6 months from 1.3.22, 9 months after application.*
- I asked the case officer if the operators centre could be changed and they refused the licence”.*
26. At the hearing of this appeal, Mr Brow attended and made the following points. He had attended the courses as requested by the DTC and had sent in the certificates. It then went quiet. He made enquiries and was told that the person dealing with the application was away and it was not known when they would be back. Then an interim licence was granted. He had sold all of the vehicles that had previously been operated by Ms Grayling and so, had to source a vehicle to put on the licence and then get it checked, serviced and MOT'd. That process took four months. At the same time, he had purchased a property to use as an operating centre but was then told that it could not be used without a further application. He had more than enough funds in his bank account (although this was not the basis upon which the application was refused). He accepted that whilst he had provided a maintenance contract with Taylors, he had not provided a signed maintenance contract for HB Commercials, a contractor he intended to use. He was taken to the drivers'

handbook including the introduction page. He accepted that he should have personalised it, deleting and adding relevant sections which were appropriate to his operation. He had not done so. He asserted that there were driver defect sheets in existence, but he had not produced them to the TC. He would use the defect report to be found at Annex 3A of the Guide to Maintaining Roadworthiness but when the Tribunal went through it, he had to accept that the report would need amending as it did not include a check on the security of drop sided tipper vehicles (as opposed to coupling security).

27. He was then asked about his comments about the availability of his nominated operating centre at Manor Farm. He told the Tribunal that the farm owner had agreed to rent him two vehicles spaces in a cage, although he had not paid any rent. Then nine months had gone by. In the interim, he had purchased an alternative property to use as an operating centre. The original operating centre was however still available and his statement in his email dated 2nd August 2022 was untrue.

Discussion

There was considerable delay in this application being determined, largely caused by the DTC leaving the jurisdiction for a considerable period of time and by reason thereof, being unable to consider the documentation that Mr Brow had submitted in purported compliance with her directions given at the end of the public inquiry. Further delay was caused by Mr Brow failing to provide compliant documentation which was reasonably required of him. An example is the drivers' handbook template. It was clearly not in a form that could pass off as a handbook that could simply be handed over to drivers once "A N Another Ltd" had been replaced with "Robert Brow". The fact that Mr Brow clearly thought that it could be, demonstrated that he had not given the template a moment's thought as to its form and substance but had merely forwarded it to the OTC in the hope that it would satisfy the DTC. When pressed about the template by the OTC, he did not then have a look at the template but continued to blindly rely upon it. This is not the conduct of an operator with a transport manager CPC who had recently undertaken two refresher courses but someone who had a careless disregard of licensing requirements. He had made no attempt to adapt the template to suit his own business purposes and the fact that he failed to do so, represented a disregard of the direction of the DTC. Moreover, it demonstrated, what some might describe, as a cavalier attitude to compliance.

28. Another example is the driver defect reports. He clearly had not applied his mind to what was required of him in this regard. Photocopying annexes to the Guide to Maintaining Roadworthiness without a thought as to whether they were relevant or not (and clearly the PSV annexes were not) again, demonstrated a careless disregard. Equally, the two examples that he first submitted (a blank sheet without explanation and another annotated with "*Report any defects to Carol Grayling*") raised more questions than they answered. As for PMI records, Mr Brow did not understand the significance of being able to show to the DTC and then the TC an example of a PMI record which could easily have been downloaded from the R2C system by either of his maintenance providers (although he had only produced a signed maintenance contractor with one). The one example he had produced was in

the name of "Camel Sand", was not in the form he was intending to use and had been completed by Auto Plant Car & Commercials.

29. Finally, there was the issue of his operating centre and his correspondence with regard to it. Mr Brow now accepts that he lied about the continuing availability of Manor Farm as an operating centre and that was apparent from the inconsistent statements he made to the OTC. Such conduct does not demonstrate that Mr Brow is someone who can be trusted to behave honestly and compliantly as an operator.
30. Having considered the above, it is clear that whilst Mr Brow is a qualified transport manager who has undertaken two refresher courses, he has not demonstrated that he has the knowledge to operate goods vehicles compliantly and that he can be trusted. The TC's determination that Mr Brow had not satisfied him that he was not unfit to hold a licence and that he had satisfactory facilities and arrangements for maintaining his vehicles in a fit and serviceable condition was not plainly wrong.

Conclusion

31. There is no merit in this appeal and in all the circumstances we are not satisfied that the TC's decision was either plainly wrong or disproportionate and neither the facts nor the law applicable in this case 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. This appeal is dismissed.



**Her Honour Judge Beech
Judge of the Upper Tribunal
28th March 2023**