

**Phillip Eric Hughes will say:**

I am the principal of PHD Chartered Town Planners a town planning consultancy that I established in 1995. I had also worked at a senior level in local government for 10 years in both Planning Policy and Development Control.

I have a Bachelor of Arts Honours Degree (BA [Hons]) in Town and Country Planning and have been a corporate member of the Royal Town Planning Institute (MRTPI) since 1990. I also have a Diploma in Management Science (Dip Man) and I am a Member of the Institute of Management (MCMI). I am also a member of the Town and Country Planning Association and an affiliate member of the RIBA.

I have represented a wide variety of clients at appeals ranging from Local Planning Authorities (including LB Camden, RB Kingston, Spelthorne, Hertsmere, Watford and Walsall Boroughs and Central Bedfordshire, Epping Forest and Bassetlaw Districts) to housebuilders (New Homes Estates, MASMA Limited, Henry Homes plc etc....), developers (Lanz Group, Mitre Property Management Limited, Mark Stephen Limited etc..) , property companies (Orb Estates, Property Matters LLP, Albermarle Property Investments plc) businesses (Super Toughened Glass Limited, Williams Tenders Limited, JIRWL, Hollywell Spring Limited), amenity groups (Anglefield Residents Association, Stopit Action Group, Paynes Lane Association, Hemley Hill Action Group) and individual householders.

I have visited the appeal site and general locality and I am familiar with the conditions and policies operating therein. I am familiar with the local, national and regional planning policies relevant to this appeal.

The evidence which I have prepared and provide for this appeal is true and has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute and I confirm that the opinions expressed are my true and professional opinions.

## **1 Preliminary**

- 1.1. This appeal relates to an application under section 191 of the Town and Country Planning Act 1990 (as Amended) for a Certificate of Lawful Existing Use and Operational Development relating to the use of two areas of land.
- 1.2. These areas are indentified on the 1:1250 location plan that accompanied the application as two rectangles of land. A further plan identifies the area closest to the dwellinghouse Woodhill Farm as Site B and the area close to the vehicular entrance to the site as Site A as does Exhibit LAC1 attached the Statutory Declaration of Lesley Anne Carter.
- 1.3. Both the sites comprise part of the land and planning unit comprising Woodhill Farm, which was outlined blue by the appellant on the application plan.
- 1.4. The Application Form states that the Certificate seeks to establish the lawfulness of the use of the two areas as a Haulage Yard and also the lawfulness of building erected on each of the two sites.
- 1.5. The covering letter submitted with the application states that the application is for:

*“[...] an existing use/development (CLUED) for a haulage yard with ancillary repair and parking of four lorries, [...] the erection of two buildings.”*
- 1.6. The appeal form confirms that the proposal is for the:

*“Use of ‘Site A’ for haulage yard with ancillary repair and parking for two lorries and two workshop/ storage buildings and building on ‘Site B’ for use as workshop for vehicle repairs and two associated parking spaces.”*
- 1.7. The Grounds of Appeal confirm the application is made in the terms that both sites are used as a Haulage Yard.
- 1.8. The Statutory Declaration of Lesley Anne Carter identifies both areas and their use for parking lorries and the erection of buildings in 2001 and 2003.
- 1.9. I have assessed the evidence relevant to the application the subject of this appeal, as far as it has been presented as part of the appeal, if further evidence is relied upon as part of the appeal, I may wish to comment further.

## **2 The Proposal**

- 2.1. It is proposed that the use of two rectangles of land within the overall curtilage of Woodhill Farm comprise separate but related (to one another) haulage yards that have operated for more than 10 years.
- 2.2. Furthermore it is proposed that a building on each site was erected more than 4 years ago.

### Site A

Use: Haulage Yard

Buildings: Erection of a storage building in 2003

### Site B

Use: Haulage Yard

Building: Erection of a workshop building in 2001

## **3 The Site and Surroundings**

- 3.1. The whole unit of occupation comprises the site identified coloured blue on the application plan and comprises an area of land which has a lawful use as agricultural and residential land and comprises an area of woodland (Pratts Bottom Wood) a dwellinghouse (Woodhill Farm) and the northern area of land which forms part of the residential curtilage of the dwellinghouse and areas previous cultivated. I note all the land has been in the ownership of the family since 1987 and has been occupied by them as one parcel of land since then. I consider the blue lined land to comprise the planning unit.
- 3.2. Two areas within the site of occupation have been identified for the purpose of this appeal/ application: Site A and Site B. One plan submitted with the application links the two sites with a narrow strip of land comprising the existing driveway. This is a false distinction with the driveway also used to access the house and other land within the whole site of occupation.
- 3.3. Site A was owned and occupied by the applicant family prior to their purchase of Woodhill Farm in 1987. I understand the land was used for horticultural/ agricultural purposes initially and a lorry operated from the site.
- 3.4. From my understanding when the land at Woodhill Farm was purchased the land at Site A was subsumed into the larger land holding.

#### **4 Supporting Information Submitted by the Appellant**

- 4.1. I outline the information supporting the application the subject of this appeal below and make brief comments about that information:

##### SD1 – Statutory Declaration of Lesley Anne Carter

- 4.2. Confirms that both Rob and Alan Carter were truck drivers although it would appear that their working lives only overlapped for a very short period, if at all. They both resided at Woodhill Farm and operated their truck from the premises. From 1991 – 2013 a truck was operated from Woodhill Farm by a resident of the site (either Allan or Rob Carter).
- 4.3. In 2001 a workshop building on site B was erected and in 2003 a storage building was erected on site A

##### SD2 – Selection of Photographs

- 4.4. A series of photographs showing a lorry parked at what is purported to be the appeal site. The lorries shown in the various photographs appear to be without loads and parked up.

##### SD3 – Copy Passport and Waste Licence

- 4.5. Confirms the person collecting waste resided at Woodhill Farm with the registered carrier recorded as Tilcon with their ' principal place of business in 1992 – 95, 1995 – 98 and 1998 - 2001 in Wimbledon London.
- 4.6. The 2001 – 2004, 2003 – 2006, 2009 – 2012 and 2012 – 2015 Certificates identify the registered carriers principal place of business as Woodhill Farm.
- 4.7. The waste licences only record one registered carrier Mr Allan Carter (with no business name) until his death in June 2003 (the last licence expired after his death in September 2004) and then Mr Robert Carter (trading as Allan Carter Haulage) from September 2003.
- 4.8. It appears that whether as a part of Tilcon or as a contractor to Tilcon this formed the basis of Allan Carter and Allan Carter Haulage need to obtain a waste licence.
- 4.9. Moreover there is nothing to indicate that either Robert or Allan Carter used Woodhill Farm for any purpose other than the parking of vehicles when not in use as part of the business. None of the actual haulage business was carried out from the appeal site.

SD4 – Goods Vehicle Operator’s Licence

- 4.10. From 1991 Woodhill Farm is identified as an operating centre for up to 4 vehicles. In 1994 an application identifies 3 vehicles registration marks EBM857T, G160LYB and JKL171V and in 1997 three vehicles are identified F419DKL, G160LYB and G749RCD. Prior to 2004 the licences were held in Mr Allan Carter’s name. For the periods 2004 – 2009 and 2009 – 2014 the licence transfers to Mr Robert Carter at Woodhill Farm. No specific vehicles or numbers of vehicles are identified on other licences in SD4.
- 4.11. The Goods Vehicle Operator’s Licence allows up to 4 vehicles and does not certify that there were 4 vehicles operating from the site. The licence sets out 4 vehicles as the upper threshold of what is covered by the standard licence.
- 4.12. Indeed we know that for the majority of time only one driver operated from the site and thus only one vehicle was in use at any one time.

SD5 – VAT Documentation

- 4.13. This shows the business registered for VAT as a sole proprietor since 1973 at a previous address

SD6 – Copy Sales Invoices Vehicles

11/2008 invoice for sale of G160 LYB (Mileage 112560) for £2643.75  
01/2009 invoice for sale of G794 RCD (Mileage 586260) for £3105.00  
08/2009 invoice for sale of E541 YKP (Mileage 843890) for £632.50

SD7 – Copy Purchase Invoices Vehicles

07/1988 invoice for purchase of MGT 377V (1979) for £5750.00  
07/1993 invoice for purchase of G160 LYB (1989) for £20562.50  
11/1995 invoice for purchase of G794 RCD (1989) for £15275.00  
07/1988 invoice for purchase of F419 DKL (1988) for £7050.00  
07/2007 invoice for purchase of DN51 XCH (2001) for £22618.00 (SD13)

The mileage of the vehicles on purchase is not recorded.

Lorry G160 LYB was purchased in 1993 and sold in 2008. It was purchased for £17500 excluding VAT and sold for £2250.00 excluding VAT and therefore depreciated by £15250.00 over the 15 years it was owned by the Allan Carter. That equates to an average depreciation of £1016.00 per annum.

G794 RCD was purchased for £13,000 in 1995 and sold for £2700.00 in 2009, therefore equating to an average annual depreciation of £735.00 over 14 years.

SD8 – Unaudited Accounts 1996 – 2012

4.14. Net profits are set out for the years 1995 – 2012 as below:

1995 £10815  
 1996 £12695  
 1997 £13233  
 1998 £13909  
 1999 £15601  
 2000 £17177  
 2001 £19522  
 2002 £22242  
 2003 £25239  
 2004 £13625\*  
 2005 £33501\*  
 2006 £25576\*  
 2007 £28138\*  
 2008 £32114\*  
 2009 £3334\*  
 2010 -£6239\*  
 2011 -£2003\*  
 2012 £3875\*

4.15. In the years marked \* a more detailed profit and loss account is provided and in each of these years a deduction is made for the use of the home as an office associated with the business. No entries are made in the account for the rent or lease by the business of any land or buildings associated with a separate use as a haulage yard.

4.16. Also no asset is held by the company in the way of land or premises that comprises a haulage yard. The only premises associated with the business appear to be a room in the family home that is used for office purposes.

4.17. The company accounts do not show any significant company assets that could account for significant numbers of vehicles or premises. By way of example the table below shows some extracts from the accounts:

Year	Depreciation on vehicles	Motor running expenses	Fuel	FIXED ASSETS*
2000/ 01	588	84	0	
2001/02	564	85	0	
2002/ 03	330	88	0	992
2003/ 04	1956	88	7038	7707
2004/ 05	1715	54	11270	5780
2005/ 06	1148	449	12442	3992

2006/ 07	861	384	13461	2941
2007/ 08	5366	188	14642	16516
2008/ 09	3933	232	8403	12112
2009/ 10	2678	7	2962	9266
2010/ 11	2256	32	7346	6950
2011/ 12	1692	37	10169	5556

- 4.18. The fixed assets of the business comprise vehicles and machinery and not any premises. For instance in 2003/ 04 the value of assets was split between vehicles at £6,860.00 and machinery at £847.00. In 2005/06 motor vehicles account for £3,446.00 of the company's assets. By 2010 motor vehicles account for £9,024.00 of the tangible fixed asserts of the business with plant and machinery accounting for £242.00. In 2011 motor vehicles account for £6,768.00 of the tangible fixed assets of the business and that reduced to £5,076.00 by 2012.
- 4.19. The average annual fuel cost associated with the business for the period 2002/ 03 – 2011/ 12 is £9748.00. From the only fuel receipt for fuel for 2011 at SD13 the cost per litre of diesel fuel was £1.1075 per litre. Given the cost of fuel from the accounts that means at £1.10 per litre 6,678 litres of diesel fuel were purchased.
- 4.20. Applying the average fuel consumption for rigid HGV vehicles at **Appendix 1**<sup>1</sup> of 2.0 Miles per litre (9.1 miles per gallon) that results in a rough calculation that in 2011/ 12 the vehicle(s) associated with Allan Carter Haulage travelled a total of 13356 miles in the year 2010/ 11. Applying a working year of 46 weeks that results in an average weekly mileage of 290 miles or a daily mileage of 48 miles over a six day week.
- 4.21. However if the vehicles were older and did not achieve these economy figures (and my understanding is that they are optimistic) then it is not unrealistic to expect economy of just 1 mile per litre of diesel from vehicles such as the 2001 tipper truck that is parked on Site A. Therefore average weekly miles would reduce to 145 miles or 24 miles a day.
- 4.22. From the accounts lorry repairs are a significant deduction and below I set out the percentage of turnover allocated to lorry repairs each year:
- 2004 lorry repairs account for 13% of turnover  
2005 11%,  
2006 13.7%,  
2007 9%,  
2008 8.3%,  
2009 35.5%,

<sup>1</sup> DoT Statistics 2010 from Continuing Survey of Roads Goods Vehicles DfT Updated November 2011

2010 21%,  
2011 17%,  
2012 13.4%

SD9 – Accountant Letter 2013

- 4.23. Confirms the site used to park commercial vehicles associated with the business since 1987.

SD10 – Death Certificate of Allan Carter

- 4.24. The Certificate is dated 3 June 2003.

SD11 – Invoices to the Business

- 4.25. Robert Carter Invoices to Allan Carter

Nov 2001 - £2000 for services  
Dec 2001 - £2000 for services  
Dec 2002 - £2000 for services  
Apr 2003 - £2200 for services

- 4.26. Tarmac series of sales haulage invoices and remittance advices all these relate to work off site (i.e. not at Woodhill Farm generally or Sites A and B specifically).
- 4.27. Looking at some of the Tarmac Invoices and whilst it is difficult to be precise I have extracted some figures on daily mileage associated with the business that maybe typical of a working day:

<b>Date</b>	<b>Daily mileage</b>	<b>Weekly miles</b>	<b>Daily Average</b>
2 May 2006	19 miles		
3 May 2006	16 miles		
4 May 2006	12 miles		
5 May 2006	14 miles		
6 May 2005	3 miles	64 miles	12.8 miles
10 Sept 2007	43 miles		
11 Sept 2007	32 miles		
12 Sept 2007	20 miles		
13 Sept 2007	65 miles		
14 Sept 2007	28 miles	188 miles	37.6 miles
10 Mar 2008	76 miles		
11 Mar 2008	11 miles		
12 Mar 2008	39 miles		
13 Mar 2008	13 miles		
14 Mar 2008	11 miles		
15 Mar 2008	20 miles	170 miles	28.3 miles



20 Apr 2009	59 miles		
21 Apr 2009	9 miles		
22 Apr 2009	37 miles		
23 Apr 2009	75 miles		
24 Apr 2009	43 miles		
25 Apr 2009	46 miles	269 miles	44.8 miles
2 Aug 2010	28 miles		
3 Aug 2010	16 miles		
5 Aug 2010	20 miles		
6 Aug 2010	20 miles		
7 Aug 2010	23 miles	107 miles	21.4 miles

- 4.28. These compare to the average fuel calculation I made for 2011 of 290 miles but this was dependent on the vehicle achieving economy of 2 miles per litre (9.1 miles per gallon) of diesel. Given the older age of the vehicle(s) operated by the business it is feasible that such economy was not possible and the figures above could represent total weekly mileage.
- 4.29. The fuel expenditure and fixed assets of the business combined with estimates of average mileage available in the documents supporting this application do not lead me to conclude that there is a haulage yard operating numerous vehicles from the appeal site.

SD12 – Documents

Two BOC information leaflets (1994 and 1995)  
 Credit account for tyres (1996)  
 Credit account for Automotive Components (1998)

SD13 – Invoices 1997 - 2013

- 4.30. Series of components for vehicles, Oxygen tanks, telephone, stationary and latterly fuel.

SD14 – Invoice materials for Building on Site B

- 4.31. Dated July 2001 a series of building materials were bought

SD15 – Invoice materials for Building on Site A

- 4.32. Dated 2003 a delivery note/ invoice for steel sheeting and building materials

SD16 – Statutory Declaration of Alan Roy Golding

- 4.33. Acknowledges that site B lies within the garden of Woodhill Farm, remembers fitting an engine in a lorry in the mid 1980s on Site A and the buildings being erected in 2001 and 2003.

### Chronology of Events

- 4.34. I note the following entries; the site was purchased in 1987 and in 1994 accountants started preparing accounts for the business. In 2001 and 2003 two new buildings were erected at the site and Mr Alan Carter died in 2003.

## **5 Information Submitted by Neighbours or Held by the Council**

- 5.1. It is a matter of regret that the description of development on neighbour letters indicated a more intense use of the site than that proposed in the application for a Certificate of Lawful Existing Use and Development. However, such an approach has had the advantage of eliciting a large body of third party responses that have provided an insight into how third parties have witnessed the use of this neighbouring site.
- 5.2. The evidence from local residents is fairly consistent. It confirms that there was a haulage business, but this has essentially involved the activities of a sole trader who only used the land to park his vehicle overnight and to occasionally repair it when necessary.
- 5.3. Anne and Alan Wheeler in their letter of October 2014 state:

*“It is true that for some years a haulage business worked out of Woodhill Farm, however for much of the time with a single lorry – driven by Alan Carter. At some point his son joined him with a second vehicle. Upon Alan's death it reverted to a single truck driven by Robert.”*

- 5.4. Nicola Elston in her letter of 25 May 2014 notes:

*“In our time at this address Mr Robert Carter used one and only one lorry for his work as a driver.”*

- 5.5. Mr S Elston explains that he has been resident in the area for 9 years and that he had had a casual acquaintance with Mr Robert Carter since their school days and his operation was as a one man lorry operation. He confirms the operation was low key and that Mr Carter was a considerate neighbour.

- 5.6. In her letter of 14 June 2014 Janet Hart explains that she has lived in her property since 1990 and:

*“In the 24 years we have lived at ..., Woodhill Farm has never been used as a haulage yard for repairing lorries or cars. It was one man (Mr Carter and then his son Robert) one lorry which went out each morning around 5.30 and returned at around 4:45 pm. Woodhill Farm was the family home and the lorry was returned each evening and parked behind the gates ....”*

- 5.7. Mr Ken Humphrey states that he has lived on or been associated with the site neighbouring "Site A" since 1952, he wrote on 31 May 2014:

*"Site A was originally used by Mr Alan Carter to park a Thames Trader lorry which he used to transport vegetables to market (agricultural use). This changed when he started carrying loads of screed and sand and purchased a larger lorry. Once his son Robert passed his HGV driving license there was a period when two lorries were parked at site A until the death of Alan in 2003 when this reverted to one lorry operated by Robert very much on a 'man with a lorry' basis. It could never be described as a multiple lorry haulage yard with all that normally entails."*

*"In the time we have lived here, site A has never been used for repairs or as a workshop and the more recently constructed sheds there have only ever been used for storage."*

- 5.8. He confirmed that there has been a parked lorry since 2003 on site A since Robert's ill-health, and that there has been no mechanical repair work at site B during this period.
- 5.9. The Crawleys have written (20 June) to say that their parents recall that there was only one lorry, which went out early in the morning and came back later that day. The neighbour at Timberland, Mr Keith Heselden long term residents (20 years) at Willow Cottage and his partner also refer to a one-man business. Cannon Penny Avann writing on behalf of Mr and Mrs Morgan residents of eighty years standing concludes that the existing use has not been in operation for the last ten years, nor prior to it.
- 5.10. Mr John Warburton states that he had lived next door to Woodhill Farm for the past 4 years:

*"During that time, for the first 3 years one commercial lorry was parked at Woodhill overnight and left early each morning, returning late each afternoon. For the last year there has been no lorry movement at all since Mr Carter passed away, and at no time during those 4 years has there been any evidence of the yard being used for a haulage business or has there been any evidence of any servicing or repair work."*

- 5.11. Neighbours seem relatively consistent in describing a site used to park overnight the occupiers' heavy goods vehicle, which is associated with the business he operated. The level of activity comprised one departure from the site in the morning with the vehicle returning late afternoon. There may have been a very short period of time before his death in 2003 when both Alan and Robert Carter both operated a HGV from the area of Site A.

- 5.12. The Council's register of business and commercial rates does not reveal any entries for the use of the site or any buildings on the site for any business purposes.
- 5.13. Aerial photography including photographs from 1961, 1966, 1971, 1981, 1986, 1991, 1998, 2001, 2006, 2010 and 2013 show the progression of development in the site. In 2001 the two buildings the subject of this appeal are not evident on the site but in the 2006 aerial photograph (**Appendix 2**) and again in 2010 (**Appendix 3**) and 2013 (**Appendix 4**) the two buildings are both evident. This would appear to corroborate the appellant's evidence that the buildings were erected in 2001 and 2003.
- 5.14. None of the photographs would appear, on their face, to support the proposition that the two sites were operating as a haulage yard.

## 6 Analysis of the Evidence

- 6.1. The Inspector's powers in respect of this appeal are to determine whether on the basis of the evidence supporting the application the decision of the Council was well founded.
- 6.2. It is important to note that it is not for the Council to seek to demonstrate that a use did not exist but in the case of this application to analyse the evidence provided by the appellant and judge on the balance of probabilities whether the use or development is lawful having regard to the 4 or 10 years requirement.
- 6.3. As noted in paragraph 1.2.2 of the Certificate of Lawful Use or Development Appeals – England Procedure Guide 2014 and the National Planning Policy Guidance Paragraph 006 which elaborate on section 191 of the Act the onus of proof lies with the appellant to show that the claimed use of Sites A and B as a haulage yard (s) has or have become lawful through the passage of time.

### Operational Development Sites A and B

- 6.4. It seems on the balance of probabilities that the two buildings the subject of the application, one on Site A and one on Site B as shown on drawings DPP/SD/13/46/01 and 02 and plotted on the drawing Ordnance Survey drawing accompanying the application, were erected more than 4 years prior to the application the subject of this appeal and as operational development are therefore immune from enforcement action.
- 6.5. In this regard I note the aerial photograph of the site taken in 2006 (see **Appendix 2**) would appear to show both the buildings in situ. Neither building existed in earlier aerial photography from 2001.

### Haulage Yard Use

- 6.6. At **Appendix 5** I include a copy of photographs taken at my site visit on 30 March 2015 showing both Site A and Site B as well as the buildings on those sites. At **Appendix 6** are a selection of photographs taken by the Council Officer during consideration of the application the subject of this appeal.
- 6.7. However, on the basis of the information before me I cannot conclude, on the balance of probabilities, that the sites have been used as a haulage yard as alleged in the application form and supporting information.

Site A – Haulage Yard Use

- 6.8. There is no doubt that both Mr Allan Carter and Mr Rob Carter both operated a sole trader “man with a lorry” haulage business from their home at Woodhill Farm. Neighbours confirm that both Alan and Rob would park the vehicle in the general area of Site A overnight and the lorry would depart from the site in the early morning and then return to the site late afternoon before repeating the pattern of arrival and departure the following day.
- 6.9. The aerial photographs at **Appendices 2 and 4** supports this level of activity clearly showing a HGV parked in front of the workshop building on Site A.
- 6.10. The photographs in SD2 appear to corroborate the parking of a vehicle on the site albeit it is not completely clear on all the photographs where exactly the lorries are parked.
- 6.11. It appears to be clear from the evidence and third party recollection that Site A was used to park a HGV vehicle and that vehicle was a working vehicle operated by either Mr Allan Carter or Mr Rob Carter. However, the application letter of 9 April 2014, refers to two vehicles being parked in this area. At my site visit in March 2015 (**Appendix 5**) and at the time the application the subject of this appeal was being determined by the Council (**Appendix 6**) only one vehicle was parked on Site A.
- 6.12. The aerial photographs from 2006 and 2010 and 2013 also only show a maximum of a single vehicle on the site.
- 6.13. Therefore, from the evidence available it would appear that at the end of a working day either Allan or Robert Carter would return to their home with their work vehicle which they would park generally in the area of Site A. They did not use this area to maintain the vehicle but did store some materials for regular maintenance of the vehicle in the workshop building they constructed in 2003.
- 6.14. The use of the other building within Site A, the breeze block stables, is not detailed in any of the evidence provided save in the application letter of April 2014. I am unclear when it was constructed and at my visit to the site one half contained some used HGV tyres. The building does not appear clearly on the aerial photograph in 2006 or 2010, which I have produced at **Appendices 2 and 3**.
- 6.15. My understanding of the use of Site A is that it was used for parking and stationing the work vehicle of the occupier of Woodhill Farm. That work vehicle happened to be a Heavy Goods Vehicle but the pattern of use associated with Site A could be considered akin to the parking of a self employed builder’s van at his/ her home or a self employed taxi driver parking his taxi at home at times he is not working.

- 6.16. The building erected in 2003 appears to be used as a garage with some vehicle related materials stored in that garage associated with the lorry. The sole reason the lorry was parked at the site appears to be because it was the home of its driver and he parked the vehicle when he returned from a day at work.
- 6.17. From the evidence before me I can accept the land has been used for parking said heavy goods vehicle, however, I am not convinced that such activity amounts to a material change of use of the land and I am mindful that the land comprises part of the overall holding of Woodhill Farm and I understand that access to the paddock beyond Site A can only be derived by passing through Site A.
- 6.18. The activity associated with parking a vehicle overnight does not in my view amount to a change of use to a haulage yard.
- 6.19. In my view the use of the land at Site A has been used for in excess of 10 years prior to the application the subject of this appeal for the parking and storage of one heavy goods vehicle.
- 6.20. I note no business rates appear to have been paid for the use of Site A as a Haulage Yard or any other commercial use of the site.
- 6.21. In that regard I consider the Council's decision to refuse to issue a Certificate of Lawfulness for the use of Site A as a haulage yard to be well founded.
- 6.22. I note no certificate is sought for the breeze block stable building at Site A which does not appear in the aerial photography at **Appendices 2 and 5**.

Haulage Yard – Site B

- 6.23. Site B is an area of land close to the dwellinghouse at Woodhill Farm and not divided from the remaining land holding by any physical boundaries. The land of Site B is contiguous with the residential curtilage of Woodhill Farm.
- 6.24. In respect of Site B the evidence of the appellant seeks to demonstrate that this area was used for the maintenance of vehicles. Certainly the building within Site B would appear to have been used for maintaining vehicles and it may well have been that HGVs were maintained in this building. However the only reference in the evidence to the frequency of use appears in the application letter of 9 April 2014 wherein it states "*the building was used for workshop purposes to repair lorries as and when required.*" Furthermore, it is not claimed that other vehicles other than those strictly associated with the business were maintained in this area.

- 6.25. It is only suggested that the HGVs maintained at Site B would have been those operated by either Rob or Allan Carter as a sole trader. There is also no suggestion or indication that the activity associated with Site B would have been associated with the commercial vehicles not associated with Messrs Carters' business.
- 6.26. The building at Site B comprises a three-sided pole barn that has been clad with steel sheeting and benefits from a concrete base. The appellant describes this building (and by extension Site B) as falling within the residential curtilage of Woodhill Farm<sup>2</sup>.
- 6.27. Within the building on Site B are a range of portable tools and equipment including what appears to be a relatively new compressor and a mechanical hydraulic press (Clarke Strong Arm). Other items appear to be an empty tool cabinet, a small work bench, a lorry wheel and fuel cans
- 6.28. At my site visit I noted that a small Ford Escort van (W434 AKN) was parked within the barn on Site B, that van is not recorded, as far as I can see, as an asset of the business or a vehicle associated with the business. This replicates an earlier photograph of the site where a small escort type van is parked in the former pole barn at the appeal site.
- 6.29. Also within the confines of Site B and possibly extending over its boundaries was a lorry that appears to be not road worthy and to have been unused for some considerable period of time. At the time the application the subject of this appeal was being considered and in the photographs taken at that time another derelict lorry was parked alongside the western side of the building on Site B.
- 6.30. Also within Site B was a range of building materials, I am unsure how these relate to the purported use of the land as a haulage yard.
- 6.31. Moreover, I noted at my site visit that storage of vehicle parts associated with heavy goods vehicles is not restricted to the areas of Site A and Site B. HGV body parts are stored elsewhere on the appeal site (as defined by the blue lines opposed to the red lines).
- 6.32. The body parts were situated to the south of Site B outside the area defined in red on the proposed plans, other lorry parts such as wheels, tyres and parts I could not identify were stored throughout the site.

---

<sup>2</sup> Certificate of Lawfulness Application letter from The Downes Planning Partnership dated 24 February 2014





**Tipper Body located to the south of Site B**

- 6.33. In addition the business has an office within the dwellinghouse that is Woodhill Farm (see accounts at SD8), it is not suggested that the business office is anything other than incidental to the use of the building as a dwellinghouse.
- 6.34. I note that the area of Site B is not delineated separate from the land that surrounds it and it is sited close to the dwellinghouse at Woodhill Farm and it runs contiguously into the site of Woodhill Farm.
- 6.35. There is no security for Site B and no measures to delineate the site from the surrounding land.
- 6.36. The use of Site B is in my view more closely associated with the residential use of Woodhill Farm and not a separate and independent planning unit that comprises any part of a haulage yard.
- 6.37. Whilst the building may have been used for vehicle maintenance and that could have included the road vehicle associated with Messrs Carters' business I am not persuaded that the evidence provides any satisfactory basis for concluding that the use was solely associated with the commercial vehicles and was of a scale or regularity that would generate a material change of use or the creation of a new planning unit.
- 6.38. I reject the assertion that two HGVs were parked in this area and note the two vehicles in Site B are derelict and un-roadworthy vehicle shells.

- 6.39. The existence of one or two derelict vehicle shells within the confines of Site B do not add to any case that this area forms part of a haulage yard. Indeed I note hobbyists and farmers quite often find it difficult to dispose of un-roadworthy and abandoned vehicles. A material change of use is not triggered by their retention on site and neither does their retention, in my view, add to the claim that the land comprises part of a haulage yard. To the contrary I would find it unusual in my experience of haulage yards, to find abandoned and derelict vehicles stored within the haulage yard.
- 6.40. A taxi driver, self-employed builder or vehicle enthusiast could use a domestic garage or outbuilding at their home for similar purposes without triggering any material change of use.
- 6.41. As such, I conclude that the Council's decision to refuse a Certificate of lawfulness for the use of Site B as a haulage yard is well founded.

Haulage Yard - General

- 6.42. The site comprises one area of land now known as Woodhill Farm, its lawful use appears to be for agricultural purposes and a dwellinghouse occupies part of the site.
- 6.43. Commercial vehicles have been associated with the site for some period of time and such a pattern of use associated with the occupiers of Woodhill Farm operating a HGV from the site is acknowledged by neighbours and third parties typically describing it as a one man and his lorry type operation.
- 6.44. The accounts for the business seem to show modest assets associated with the business and support the proposition that it was a one man and his lorry operation. Estimates of weekly or annual fuel expenditure and mileage and the accounts provided would not appear to support and multiple vehicle or employee operation.
- 6.45. The use described in the papers appears to be consistent with a use of part of a land holding (typically a dwelling) by its occupier for the parking and storage of their work vehicle.

## **7 Conclusion**

- 7.1. The Council's decision to refuse to grant a Certificate of Lawfulness for the composite Certificate comprising the use of the two sites as a haulage yard with four vehicles parking on those sites and the erection of two buildings was well founded.
- 7.2. From the evidence provided with the application the subject of this appeal I consider it can be concluded that the operational development comprising the erection of a building on Site A comprises development that was completed at least 4 years prior to the application the subject of this appeal.
- 7.3. I also consider it can be concluded that the operational development comprising the erection of a building on Site B comprises development that was completed at least 4 years prior to the application the subject of this appeal.
- 7.4. It is no part of the application the subject of this appeal and no evidence is provided to certify the lawfulness of the operational development that comprises the breeze block stables building on Site A.
- 7.5. In my view the evidence provided by the appellant and corroborated by third parties and the Council's own evidence would all support the conclusion that Site A has been used for more than 10 years prior to the submission of the application the subject of this appeal for the parking or stationing of one Heavy Goods Vehicle.
- 7.6. With regard to Site B whilst I accept the erection of the building (i.e. the operational development) is exempt from enforcement action by reason of the passage of time I do not accept that sufficient evidence has been provided to demonstrate beyond reasonable doubt that any material change of use of this land has occurred.
- 7.7. I therefore invite the Inspector to conclude that the Council's decision to refuse to issue a Certificate of Lawfulness in the terms sought by the appellant, was well founded.

**1**

Department for Transport statistics  
[Transport energy and environment](#)

Table ENV0104 (TSGB0304)

Average heavy goods vehicle fuel consumption: Great Britain, 1999-2010<sup>1,2,3</sup>

		Miles per gallon										
	Net weight (tonnes)	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
<b>Rigid vehicles</b>	Over 3.5t to 7.5t	13.4	12.3	13.2	12.6	13.3	13.7	13.7	13.7	13.2	12.8	12.8
	Over 7.5t to 14t	11.6	11.0	11.3	10.9	11.0	11.6	10.8	11.4	10.6	10.5	11.1
	Over 14t to 17t	9.6	9.8	9.7	9.7	10.0	10.1	9.6	9.1	9.3	9.7	9.7
	Over 17t to 25t	8.6	9.0	8.9	9.1	9.6	10.0	10.0	9.5	9.1	9.4	9.4
	Over 25t	6.7	6.6	6.8	6.6	6.6	6.9	6.7	6.7	6.4	6.4	6.5
	<b>All rigid vehicles</b>	<b>10.1</b>	<b>9.7</b>	<b>9.8</b>	<b>9.5</b>	<b>9.8</b>	<b>10.0</b>	<b>9.7</b>	<b>9.4</b>	<b>9.0</b>	<b>9.2</b>	<b>9.1</b>
<b>Artic vehicles</b>	Over 3.5t to 33t	8.8	8.6	8.6	8.6	9.0	9.3	9.0	8.9	8.8	8.8	8.5
	Over 33t	7.8	7.6	7.7	7.6	7.9	8.0	8.0	7.9	7.6	7.6	7.6
	<b>All artic vehicles</b>	<b>8.0</b>	<b>7.8</b>	<b>7.8</b>	<b>7.8</b>	<b>8.0</b>	<b>8.2</b>	<b>8.1</b>	<b>8.0</b>	<b>7.7</b>	<b>7.7</b>	<b>7.6</b>

1. These figures are for heavy goods vehicles registered as goods vehicles in Great Britain, carrying freight within the United Kingdom. The figures exclude non-freight carrying HGVs such as recovery vehicles or fire engines.
2. These figures are based on the gallons of fuel purchased by hauliers or taken from their own supplies for a surveyed vehicle, together with their records of miles travelled during a given survey week (see notes and definitions).
3. An update of fuel consumption data should be available in early 2015.

Telephone: 020 7944 4129  
 E-mail: [environment.stats@dft.gsi.gov.uk](mailto:environment.stats@dft.gsi.gov.uk)

Source: Continuing Survey of Roads Goods Transport, DfT  
 Last updated: November 2011  
 Next updated: 2015  
 The figures in this table are National Statistics

**2**



The GeoInformation Group Data © copyright  
 by The GeoInformation Group, 2013.  
 Licence No. 3708 © The GeoInformation Group 2013.  
 Licence No. 3690 © The GeoInformation Group 2010.  
 Licence No. 3690 © The GeoInformation Group 2006.  
 Licence No. 1608 © The GeoInformation Group 2001.  
 Licence No. 0264 © The GeoInformation Group 1998.

© Crown copyright and database rights 2014. Ordnance Survey, 100017661.

## TOWN PLANNING

# 2006



JIM KEHOE  
 CHIEF PLANNER,  
 CIVIC CENTRE,  
 STOCKWELL CLOSE,  
 BROMLEY, KENT, BR1 3UH.  
 Tel: 020 8464 3333

Scale 1:500



22/10/14

Plan No.

3





The GeoInformation Group Data © copyright  
 by The GeoInformation Group, 2013.  
 Licence No. 3706 © The GeoInformation Group 2013.  
 Licence No. 3690 © The GeoInformation Group 2010.  
 Licence No. 3690 © The GeoInformation Group 2008.  
 Licence No. 1608 © The GeoInformation Group 2001.  
 Licence No. 0264 © The GeoInformation Group 1998.

© Crown copyright and database rights 2014. Ordnance Survey 100017661.

## TOWN PLANNING

# 2010



JIM KEHOE  
 CHIEF PLANNER,  
 CIVIC CENTRE,  
 STOCKWELL CLOSE,  
 BROMLEY, KENT, BR1 3UH.  
 Tel: 020 8464 3333

Scale 1:500



22/10/14

Plan No.

**4**



The GeoInformation Group Data © copyright  
 by The GeoInformation Group, 2013.  
 Licence No. 3704 © The GeoInformation Group 2013.  
 Licence No. 3690 © The GeoInformation Group 2010.  
 Licence No. 3690 © The GeoInformation Group 2006.  
 Licence No. 1808 © The GeoInformation Group 2001.  
 Licence No. 0254 © The GeoInformation Group 1998.

© Crown copyright and database rights 2014. Ordnance Survey 100017661.

**TOWN PLANNING**



JIM KEHOE  
 CHIEF PLANNER,  
 CIVIC CENTRE,  
 STOCKWELL CLOSE,  
 BROMLEY, KENT, BR1 3UH.  
 Tel: 020 8464 3333

**2013**

Scale 1:500



22/10/14

Plan No.

**5**



Buildings On Site 'A' Woodhill Farm 30.03.2015





Stable building on Site 'A' Woodhill Farm 30.03.15.





'Stable building' and 'Storage building': Site A 30/03/15.





Gated access from Site A to adjoining field 30.03.2015





Site 'B' Woodhill Farm

30/03/15.

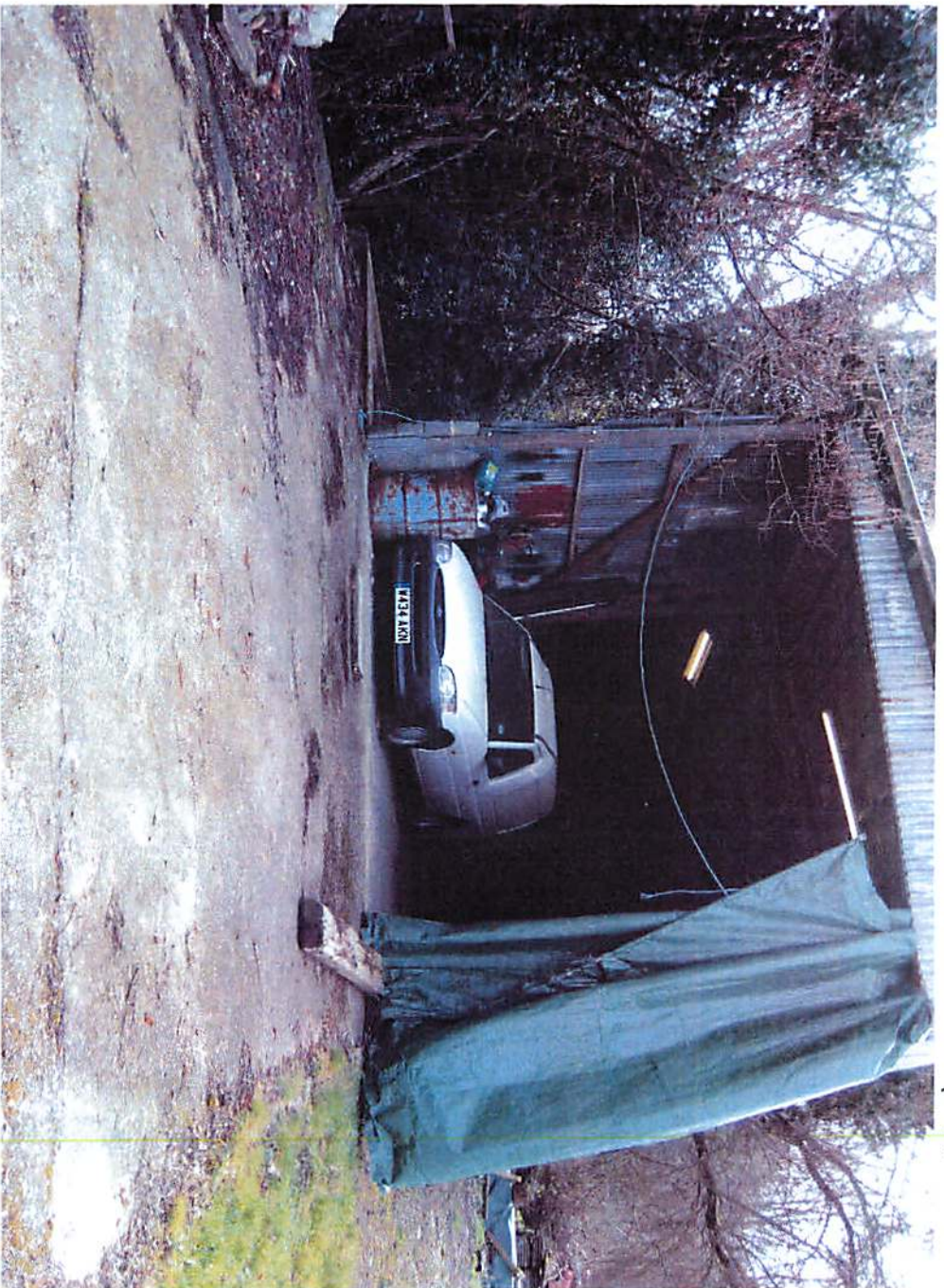




Site 'B' Woodliff Farm

30<sup>th</sup> March 2015





30/07/15-

Site 'B', Woodhill Farm.

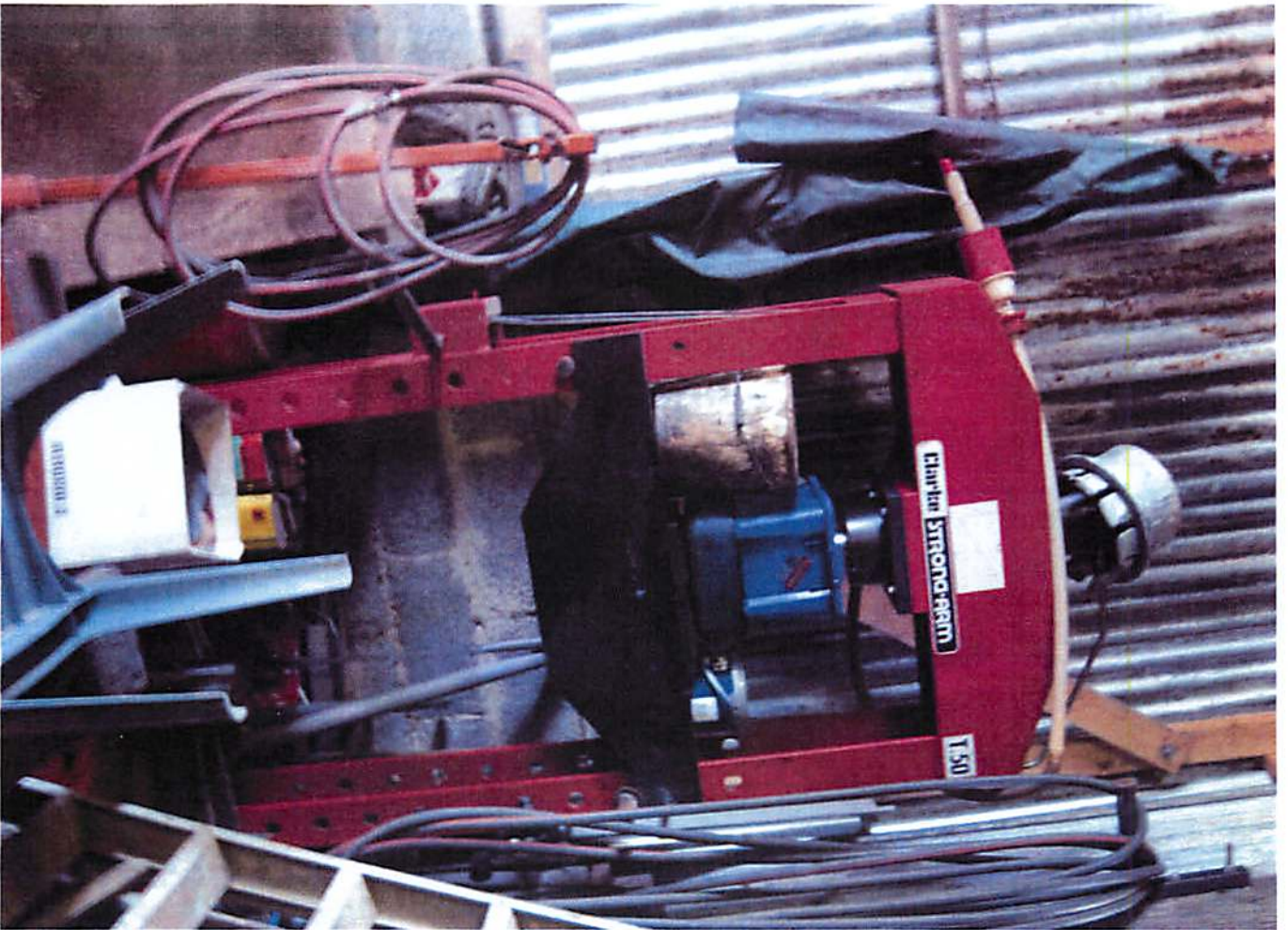




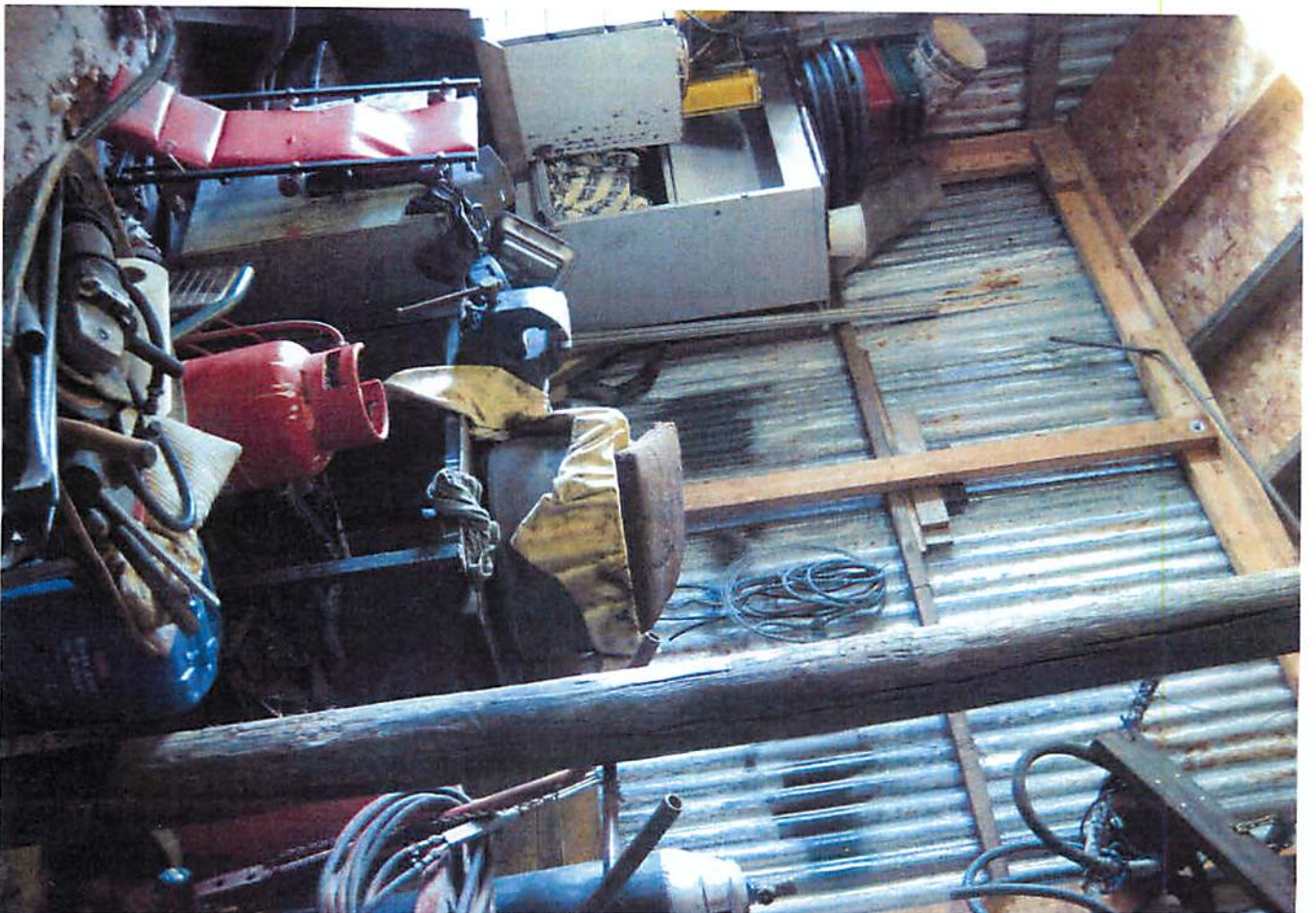
Van within workshop at Site 'B' Woodliff Farm

30/03/15.

Equipment in building on Site B



Woodhill Farm



30/02/15



Site B building equipment

30/03/15

6

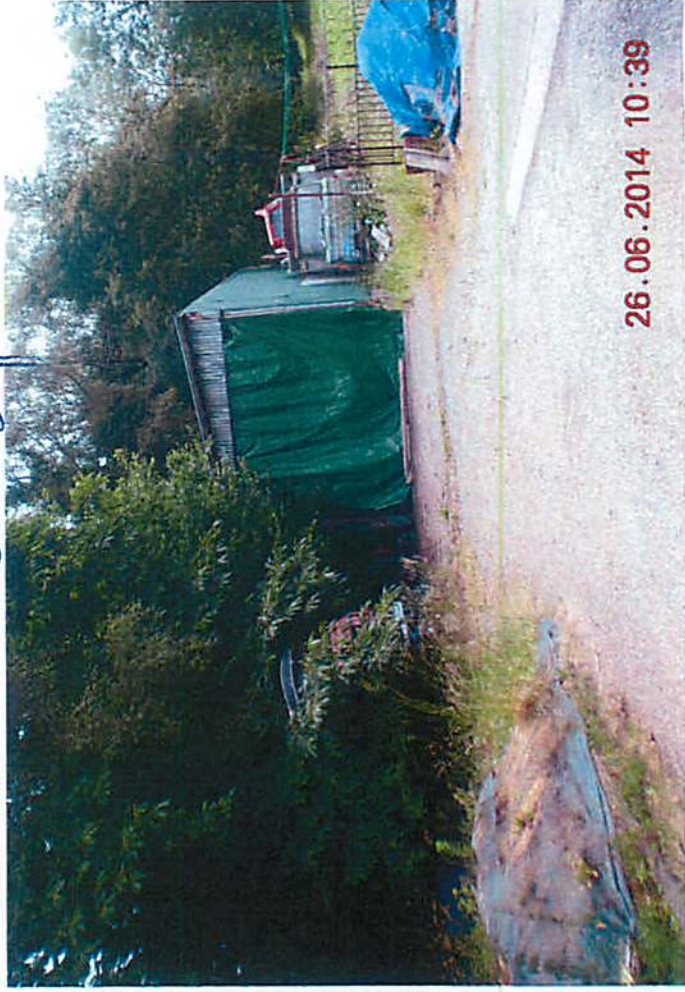
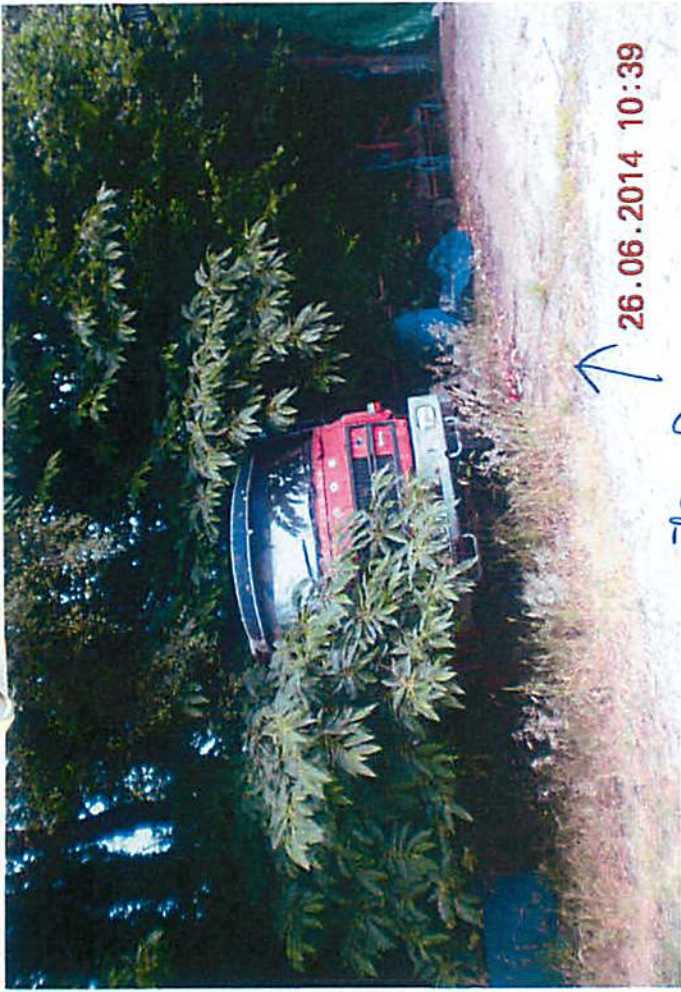


Site A

A

Site A





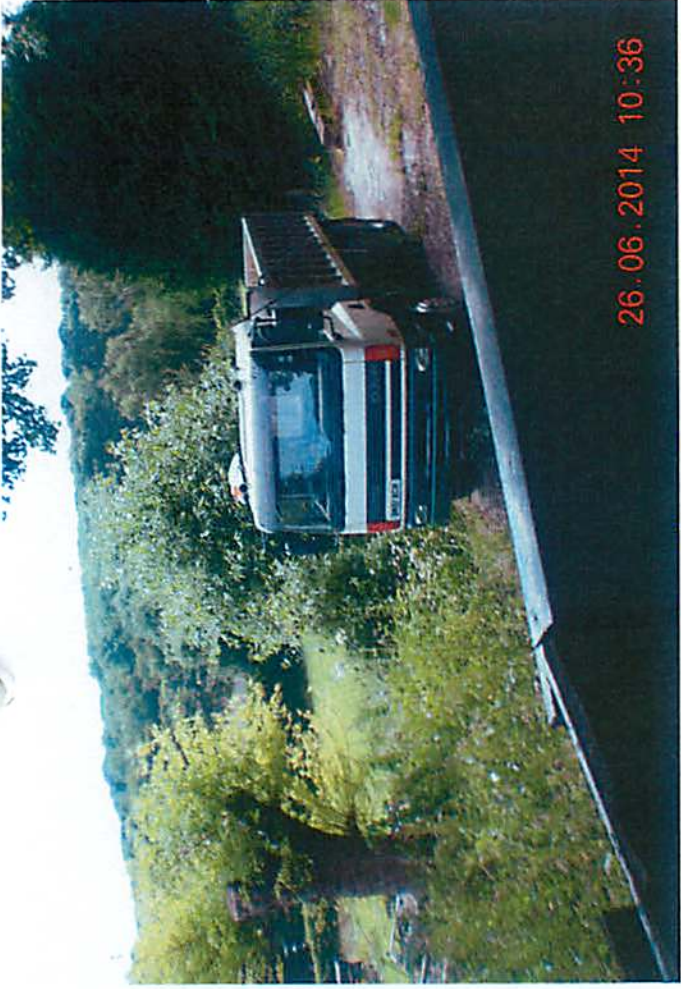


site B



site B'.





Arso A





dwelling

26.06.2014 10:39



access track

26.06.2014 10:40



26.06.2014 10:39



26.06.2014 10:40

