

PLANNING STATEMENT & EVIDENCE STATEMENT

Location	Granby Farm, 20 Woodbottom Road, Netherton, Huddersfield, HD4 7DJ.
application	Certificate of Lawfulness (existing) for use of former Agricultural Building as Mechanics Workshop (B2)
client/applicant	Mr J Mellor
job number	24/1098
date	January 2025

INTRODUCTION

This application for a Certificate of Existing Lawful Development is submitted to the Local Planning Authority (Kirklees Council) under section 191 of the Town and Country Planning Act 1990 (as amended).

The date of this application is 27th January 2025.

The applicant is Mr J Mellor.

PLANNING HISTORY

The following planning history has been taken from the public, online database;

Application number	Description	Decision	Decision Date
2024/90641	Demolition of existing shed and out-buildings, reconfiguration of existing drive, erection of detached garage, conversion of existing barn to form one dwelling and erection of single and two storey extensions to existing farmhouse.	Conditional Full Permission	21/06/2024

It is important to note the above extant consent has not been implemented. We understand no subsequent required Building Regulations application has been submitted.

The 2024/90641 has pre-commencement conditions attached to the approval. We understand that no application has been made to formally discharge these.

The subject building of this application is described as “*Timber and block barn*” on the above planning application drawings. The Ecology addendum references the subject property as “*Main Barn Extension*”

The Bat Survey Report, submitted as part of the above application, states “*Both the main barn and the extension were used as a mechanical workshop at the time of the assessment*”. This Bat survey report is dated October 2023.

It is important to note this application does not relate to the stone barn, only the more modern barn as noted on the OS Location plan (shaded red).

The structural report, dated 13th October 2023, submitted with the above 2024/90641 application references the stone barn and mechanics workshop building, this application subject building, as “*barn 3*”. The structural report states “*Adjoining the main barn is a garage workshop constructed from low level blockwork walls, timber beams and columns which support the corrugated cementitious board covering.*”

APPLICATION

This application is made under the ten-year immunity rule of Section 171B Town & Country Planning Act 1990 (as amended) – Paragraph (3) *(In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.)*

The development in question relates to the following aspect of ‘development’ as defined under Section 55 of The Town and Country Planning Act (meaning of development);

“Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”

We contend this overall application provides relevant and sufficient justification to evidence and support this application to enable the LPPA to issue the certificate of lawfulness for the use of the former agricultural building as a mechanics workshop (commercial use).

We contend this use falls within B2 (general Industrial - Use for the carrying on of an industrial process other than one falling within the uses described in Class E). We contend B2 is the most relevant use class due to the noise associated with the use as opposed to use Class E.

The use of this structure has been carried out and used for in excess of ten years prior to the date of this application.

This application relates to the building as referenced (shaded red) on the submitted OS Location Plan.

The red line area, not shaded in red, simply identifies the access to the subject building.

Accompanying this application, within Appendix A, is Mr John Mellor’s statutory declaration confirming the historical use of the subject building.

Appendix B has a letter from Mr John Mellor’s accountant confirming they act for Mr Mellor and have done since April 2014. The letter is self-explanatory.

Appendix C contains a letter from a customer of Mr John Mellor. This letter has been prepared also as a statutory declaration, again this letter is self-explanatory.

Appendix D Contains internal photos of the subject property, principally of vehicles within the subject building but clearly demonstrates the use of the building. Clearly evident on the photos

are works in progress on motor vehicles, an engine hoist, associated mechanical liquids/oils/spray paint cans, vehicle ramps, a four-post vehicle lift, welding equipment, engine props, parts of engines, oil drums/barrels, vehicle panels, etc. All parts that would expect to be found in a general mechanics workshop.

Appendix E (separate document due to file size) Contains a large number of invoices/receipts, the vast majority of which are dated, and all referencing Mr John Mellor's business address and clearly demonstrate motor vehicle parts purchased for his business operation at Granby Farm. The receipts date back to January 2014 to date. We specifically asked for invoices/receipts for use as evidence dating back in excess of 10 years. The use goes back further but 10 years is the required threshold for an existing certificate of lawfulness.

We contend this application, when considered as a whole, demonstrates the 'balance of probability' in favour of the application.

Google earth pictures/historical area photos don't really assist with this application as naturally works are all carried out internally within the subject building.

We understand the subject building has been used as a mechanics workshop going back to 2010 (14+ years). The receipts within Appendix E corroborate this.

LAWFUL DEVELOPMENT LEGISLATION

The legislation sets out (Section 191 – 1);

“If any person wishes to ascertain whether—

- (a) any existing use of buildings or other land is lawful;*
- (b) any operations which have been carried out in, on, over or under land are lawful; or*
- (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,*

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.”

Point A & B above are relevant on this application.

Section 191 (2) goes on to state:

“For the purposes of this Act uses and operations are lawful at any time if -

- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and*
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.*

Section 171B confirms the time limits for enforcement action;

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of—*
 - (a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed*
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of—*
 - (a) in the case of a breach of planning control in England, ten years beginning with the date of the breach*
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.*

Statutory requirements of the Town and Country Planning (Development Management Procedure) Order 2010

As required by this secondary legislation, Part 8 (39) states that such an application must be accompanied by the following information (responses shown in RED):

(a) A plan identifying the land to which the application relates drawn to an identified scale and showing the direction of North; (SUBMITTED WITH THIS APPLICATION - SEE THE ACCOMPANYING 1:1250 LOCATION PLAN)

(b) such evidence verifying the information included in the application as the applicant can provide; (PLANNING & EVIDENCE STATEMENT ALONG WITH THE APPENDICES) and;

(c) A statement setting out the applicant's interest in the land, the name and address of any other person known to the applicant to have an interest in the land and whether any such other person has been notified of the application. THE APPLICANT, MR JOHN MELLOR IS THE LAND OWNER. THE FREEHOLD OWNER OF THE PROPERTY/BUILDING IN QUESTION, THERE ARE NO OTHER OWNERS OR PARTIES THAT HAVE AN INTEREST IN THE LAND/PROPERTY.

Guidance and case law for Lawful Development Certificate applications

The National Planning Practice Guidance 'Lawful Development Certificates', paragraph 006, states;

"In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."

Case law notes that the '**balance of probability**' test is less onerous than that of '**beyond reasonable doubt**'. Moreover, the courts have held that the applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted (*Gabbitts v Secretary of State for the Environment and Newham LBC* [1985] J.P.L. 630).

SITE HISTORY & INFORMATION

Mr John Mellor moved to Granby Farm, the application site, in January 2000.

Mr Mellor cared for the owner, Mrs Leah Mitchell, following a major stroke.

Mr Mellor took legal possession (purchase) of the overall property/land in 2010.

Land around the property has been rented to other nearby farmers since 2010, no agricultural operations have existed/been carried out on the application site since 2010. The former agricultural buildings were put to other uses/purposes.

The subject building has been used as a mechanics workshop since 2010. Receipts and invoices within appendix E verify this.

EVIDENCE OF LAWFULNESS

Appendix A - Contains the applicants statutory declaration.

Appendix B – Contains a letter from Mr Mellor’s accountants along with a CWF1 Form confirming the use of the subject property as a ‘vehicle repair workshop’.

Appendix C - Contains a letter from a longstanding customer of the applicant.

Appendix D - Contains internal photos of the subject property.

Appendix E - Contains a large number of dated and addressed invoices and receipts associated with the repair and maintenance of motor vehicles

Although the site is relatively remote and secluded, we contend no attempt has been made to conceal the development.

It is wholly reasonable for such a use/function to be carried out within a sheltered building, away from/out of the elements.

We contend this statement along with the appendices demonstrates that the former agricultural building, within the shaded red area, on the accompanying OS location plan, evidences the continuous use to be well in excess of ten years.

CONCLUSION

It is submitted that the existing mechanical workshop use of the former agricultural building is lawful at the date of this application under Section 191 of the Town & Country Planning Act.

The evidence listed and within the appendices is considered to be sufficiently precise and unambiguous to prove, on the balance of probabilities, that the building has been in situ and continuous use for a period of more than ten years from the date of this application. This comprises the minimum required ten-year immunity time period before the date of this S191 Certificate of Lawfulness application.

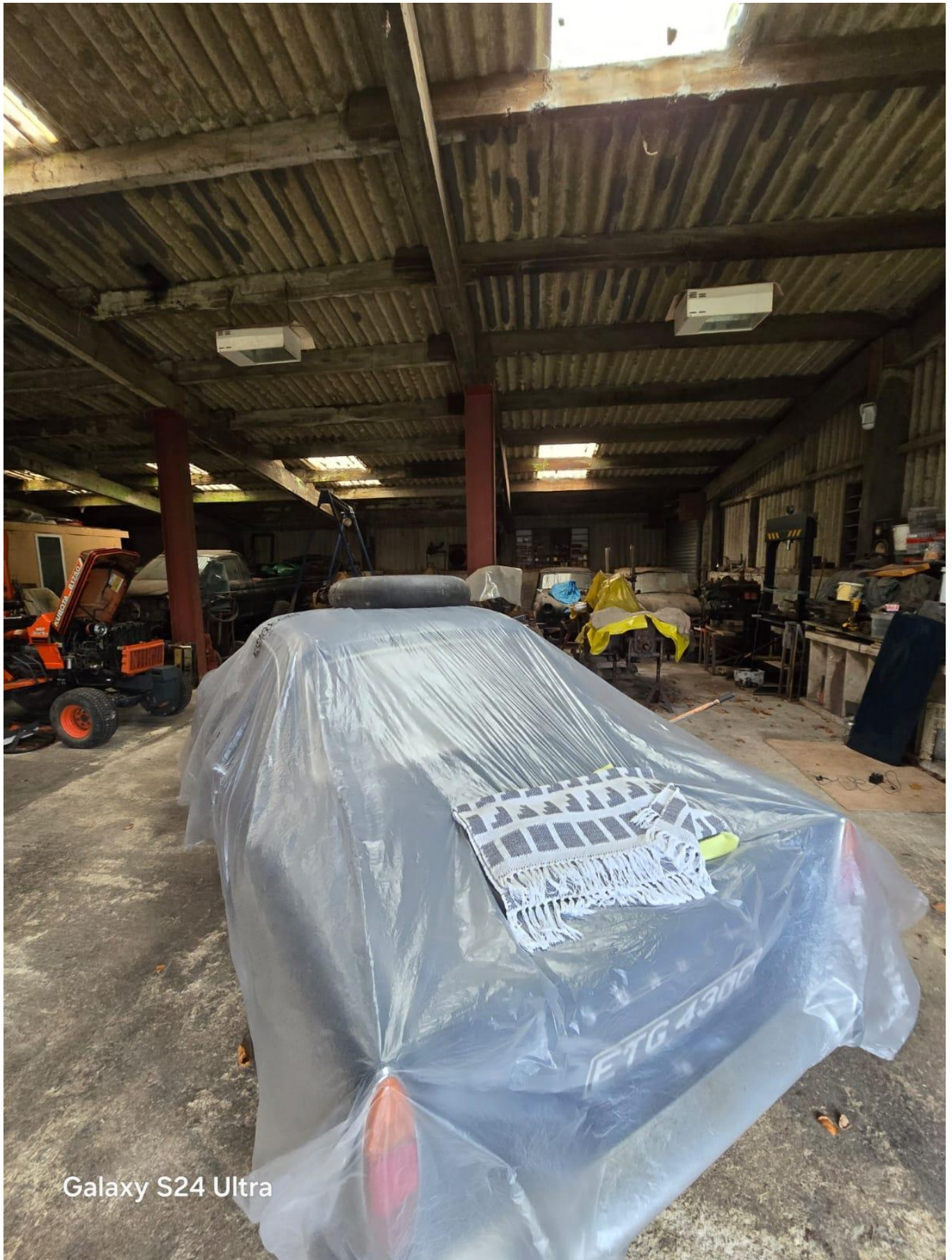
Finally, as the Planning Practice Guidance recommends, at paragraph 006, should the Local Authority obtain its own evidence, this needs to be shared with the applicant to enable comment and the opportunity, if necessary, to produce counter-evidence.

In light of the above, we respectfully submit that the aforementioned development is indeed lawful, and request that the Local Planning Authority grant the Certificate of Lawfulness accordingly.

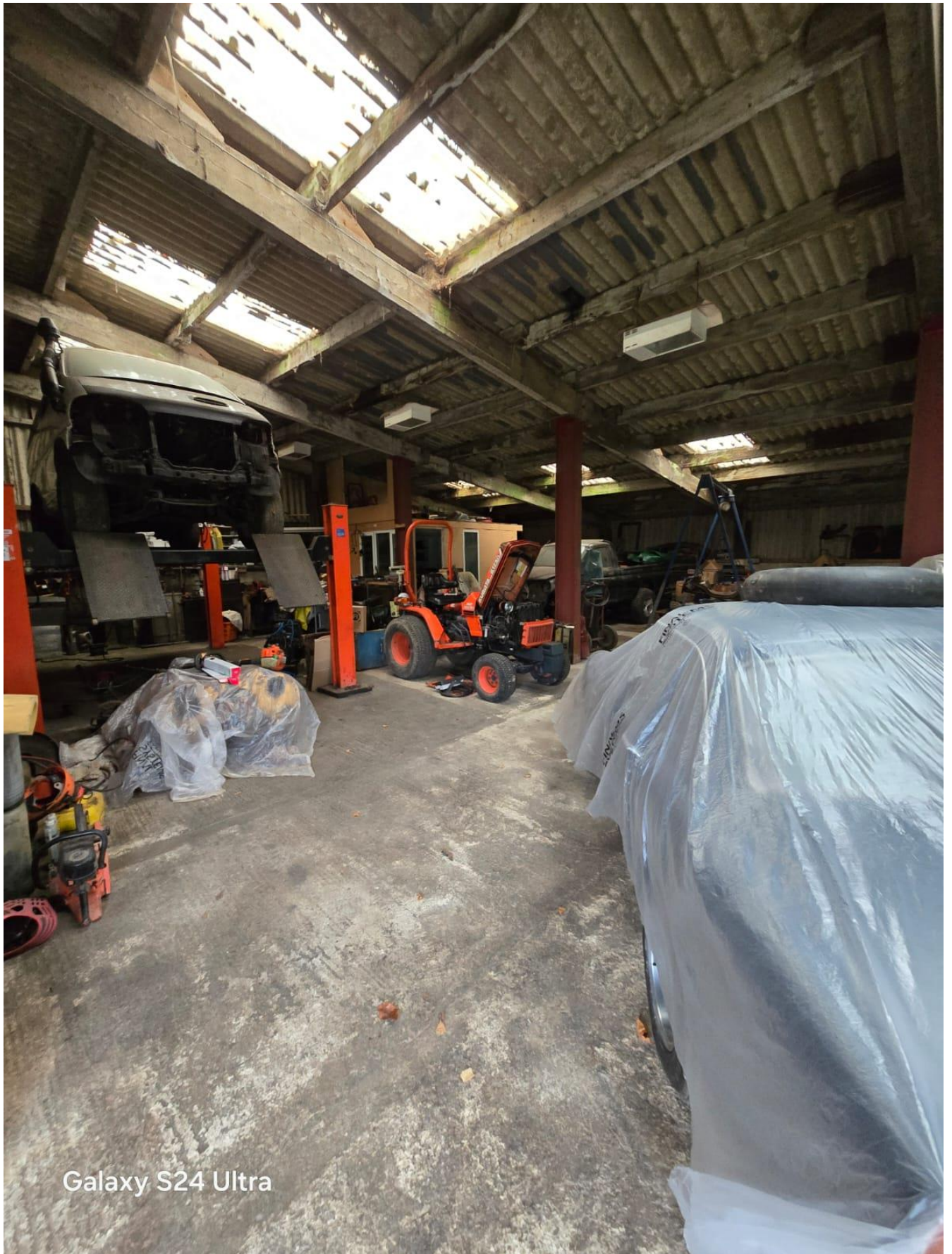
Should any further information or clarification be required please don't hesitate to contact us.

It would be appreciated if you could contact Paul Matthews Architectural Ltd prior to drafting up your recommendation for determination.

APPENDIX D
(Internal Photos of subject property)



Galaxy S24 Ultra



Galaxy S24 Ultra



Galaxy S24 Ultra













