

STATUTORY DECLARATION

of

JAMES SMITH

relating to

Land at Weydyke Bank Farm

I, James Smith of 8 Delphfields, Long Sutton, Spading Lincolnshire, PE12 9BJ do solemnly and sincerely declare as follows:-

1. For the period from July 2004 until present I have been employed by DNS Transport Limited ("DNS Transport") (company number 03732457) as its Transport Manager. During my entire time in this role I have had my office at Weydyke Bank Farm where the land shown edged red ("the Land") on the plan produced at Exhibit JS1 page 1 has been used continuously as a haulage yard. During the whole of that time the open areas have been used for parking of lorries, vans and trailers and the barn has been used for storing parts and accessories including tyres. There has also been an office on the site.
2. DNS Transport has operated from Weydyke Bank Farm since about 1977, when my father first set up the business as a sole trader. I recall as a child the Land being used as an operating centre for the goods vehicles. DNS Transport Limited was incorporated on 15 March 1999. In 1998 my father made an application for a Certificate for Lawful Existing Use and Development to South Holland District Council in relation to the use of Weydyke Bank Farm as a goods vehicle operating centre. I produce at Exhibit JS1 pages 2 to 15 some of the affidavits which were then produced as part of that application. The application was not dealt with by the Council and in 2005 my father received a notice of non determination of the application which is attached as JS1 page 16. I have looked at the Council website and it did not contain any evidence to counter the evidence that my father had provided, it appeared simply not to have been dealt with. The relevant information from the Council website is pages 17 to 24 of JS1. There was a further detailed statutory declaration in support but we can no longer find a copy and it is clear from the email from Mr Fidler at page 25 of JS1 that the Council lost it and did not take it into account. The correspondence relating to this is pages 21 to 23 of JS1. Whilst the area covered by this previous application differs from the current area used, the evidence which was submitted did show continuous use of the land by DNS transport Limited for a period of at least 20 years up to 1998.
3. I set up James Smith Transport in 1993 as a sole trader operating from Kings Lynn. In 2004 my father asked me to join DNS Transport at Weydyke Bank Farm as the Transport Manager. At this time I moved James Smith Transport operations to Weydyke Bank Farm and incorporated James Smith Transport Limited (company number 05225414) on 8 September 2004. I applied for a new operators licence in the name of the Company and it was granted on 22nd August 2005. A copy of the licence showing the operating centre at Weydyke Bank Farm and of the Licence summary from the VOSA Operators Self Service Website is attached at pages 26 to 33 of JS1. This shows that five vehicles were declared on the licence from the 17th August 2005 with Weydyke Bank Farm as the operating centre. As a matter of law the vehicles must be parked at the operating centre when they are not in use. (Goods Vehicle (Licensing of Operators) Act 1995 section 7
4. I produce at Exhibit JS1 pages 34 to 39 the Goods Vehicle Operators Licence issued to DNS Transport Ltd at Weydyke Bank Farm in force from 4th June 1999 together with a summary from the VOSA Operators Self Service Website which shows Weykyke Bank Farm has been the declared operating centre of DNS Transport Limited from at least 4th June 1999 to now. It also shows the vehicles which have been declared from time to time on that licence and which used it as its operating centre. A new operating centre at Spalding was added in 2013, but it has not been used.

5. My role as Transport Manager is to run the entire fleet of vehicles, both the DNS Transport Limited and the James Smith Transport Limited vehicles. This currently includes two 44 tonne lorries, five 18 tonne lorries, one 17 tonne lorry, five 7.5 tonne lorries and three vans.
6. I produce at Exhibit JS1 pages 40 to 44 a schedule which I have prepared showing all the vehicles which have been declared under these two licence from 2004 to 2014 and have been operated from the operating centre at Weydyke Bank Farm. Before the James Smith Transport Licence was issued I operated all of the vehicles which were initially declared on that licence from Weydyke Bank Farm from July 2004 when I came to Weydyke Bank Farm as the Transport Manager. This schedule shows the registration number of the vehicle and its weight. We have, throughout my time as Transport Manager and before operated a range of sizes of vehicles because this means that we can carry out a range of work efficiently. The size of vehicle which is appropriate to the job will depend on the pallet size and weight for the produce being delivered. We have operated vans throughout the period as well as the lorries declared on the licences, but they do not need to be declared on an operators licence. As further evidence that the declared vehicles were operated by DNS and James Smith Transport Limited I attach as pages 45 to 51 of Exhibit JS1 examples of Diesellink Services invoices for the period 2004 to 2010, which show that during the period fuel was purchased for vehicles specified on the two licences. After 2010 diesel was paid for by fuel cards which are invoiced and paid by direct debit weekly. Other invoices are available. I have provided a representative sample for the period.
7. DNS Transport provides a niche service as a smaller haulier. We have operated 24 hours a day as long as I can remember and certainly during the whole of my time as transport manager. I attach as pages 52 to 53 of JS1 a photograph of our oldest lorry P911 GAV showing the 24 hour operation on its livery which has not been changed since it was bought new in 1999. I receive calls 24 hours a day requiring vans or lorries to be provided within the next few hours. We are able to provide this service, unlike larger haulage companies who have longer waiting periods for vehicles. I arrange all jobs booked with the company and organise the drivers to ensure they know which jobs they are doing, what is required as part of the particular job and where they are going. I also schedule all vehicle maintenance including maintenance of the refrigeration units and the fleet tyre checks.
8. We operate seven days a week including bank holidays. The larger articulated lorries tend to be away from the yard during the week. They have sleeper cabins on board so they only need to return to Weydyke Bank Farm about once a week. The smaller vans and lorries do not have sleeper cabins and therefore the drivers must return these to be parked at Weydyke Bank Farm every night. This has been the same for the entire ten years I have been working from Weydyke Bank Farm. The whole of the open area of the site is used for parking.
9. Since I joined DNS Transport I have maintained schedules of all the jobs booked. These diary schedules set out brief details of the client, where the delivery is picked up from, where it is to be delivered to, the size and registration number of the vehicles used. I produce at Exhibit JS1 pages 54 to 102 extracts from the DNS diaries, in these 7.5 means a 7.5 tonne vehicle R means a rigid 18 tonne vehicle and A means a 44 tonne articulated vehicle. Pages 103 to 110 of JS1 are extracts of the James Smith Transport work books. I have mislaid the one for 2008 to 2011, but there was no change in the general type of the work. The full sets of diaries are kept in the office at Weydyke Bank Farm and are available for inspection.

10. All our vehicles use the land edged in red on the attached plan at JS1 as their operating centre. The number of vehicles parked on the site at any one time varies depending on the company's work load. The run up to Christmas is a particularly busy period as DNS Transport distributes food products meaning there will be vehicles coming and going from site more often. January is also a busy period as the company also distributes flowers and bulbs. The work loads tend to quieten down in February, but begin to pick up again for Easter and Mother's day. We are then fairly busy throughout the summer for the delivery of salad stuffs. Over the Easter and Christmas breaks all vehicles are likely to be parked at Weydyke Bank Farm for a few days during the bank holidays.
11. Whilst no major mechanical maintenance takes place on the Land; vehicle parts, fuel and other products are delivered to Weydyke Bank Farm. I produce at Exhibit JS1 pages 111 to 134 examples of invoices throughout the period from 2004 to present showing the delivery of tyres fuel and other parts to Weydyke Bank Farm. These include deliveries for ULS Diesel to fuel the vehicles, Gas Oil which is used to power the engines of the fridge units in the refrigerated trailers, Ad Blue Greenox Ibc Ad 953 Gravity which is an additive used in modern engines to help with emissions from the period 2004 to present day. Once delivered to Weydyke Bank Farm the drivers use these various products on the vehicles when they are parked at Weydyke Bank Farm. Materials including tyres have been stored in the barn at Weydyke Bank Farm throughout the whole of the period that I have been transport manager and were before then.
12. Regular tyre checks for the entire fleet of vehicles have taken place at Weydke Bank Farm throughout the period 2004 to present. When I first joined DNS our tyres and their maintenance was provided by Kingsway Tyres and I dealt with Peter Kemp. When Peter moved from Kingsway to Bush Tyres DNS Transports business moved with him. Examples of invoices from both Bush Tyres and Kingsway Tyres which include ones which show that work was undertaken on vehicles at Weydyke Bank Farm are included in the invoices referred to in the paragraph above.
13. For the period 2004 to date DNS Transport Ltd has paid and still pays Business Rates to South Holland District Council for the use of Weydyke Bank Farm as shown by the business rate bills for the period 2004 to January 2015 at Exhibit JS pages 135 to 143 I produce at Exhibit JS1 pages 144 to 146 a letter from South Holland District Council dated January 2005 which has been signed by my father and states "*I confirm that the hereditament (property) to which the application relates is the only hereditament in England occupied by DNS Transport Limited*". This confirms that the land edged red on the plan was the only goods vehicle operating centre used by DNS Transport. It has continued to be for the whole of the period that I have been transport manager and it was before that to my personal knowledge.
14. DNS has throughout the time that I have been transport manager employed 10 to 12 drivers, myself and my wife. My wife undertakes the majority of the company's paperwork. Of the drivers, the following members of staff have worked for DNS Transport throughout the period: Mel Brannan (18 years service), Bruce Baker (10 years service), Kenneth Mecision (10 years service) and Jeffery Deans (10 years service). They have all driven vehicles based as Weydyke Bank Farm.
15. DNS Transport Ltd has had offices at Weydyke Bank Farm since 1977 when the business started until present, from which the administrative side of the haulage business is run.

During this time we have been receiving services such as water, electricity, telephone and internet. I produce at Exhibit JS1 pages 147 to 159 examples of utilities bills from the following suppliers: British Gas, Eon, BT and Anglian Water throughout the period 2004 to present.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act 1835.

Signed:

 J. Smith

Declared at

1 Warrington

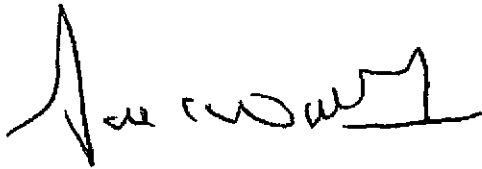
Holbrook Green

on

15th April 2011

Before me:

Signed ..



J.C. WOOLLEY
SOLICITOR

.....
~~Solicitor/Commissioner for oaths~~