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Dear Mr Tansley

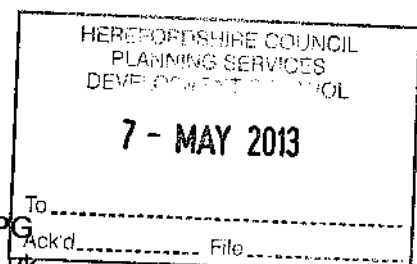
**Re Submission of Certificates of Lawful Development The Old Mushroom Farm  
 Callow**

I enclose an application for a Certificates of Lawful Development for Existing Uses for Units 3, 4, 9 and 10 The Old Mushroom Farm Haywood Callow.

The application is accompanied by sworn statements from Mr Andrew Lyke of Sutherland and Thomson who has managed the applicants land since 1997. The information relating to Unit 3 is included in the sworn statement for Unit 4 as part of this unit was subdivided for storage in 2003 to form this unit.

The Old Mushroom Farm comprises approximately 68 acres of land formerly used as a Ministry of Defence site with numerous bunkers, roadways and outbuildings. The majority of these buildings date back some 50/60 years with some later additions. None of these buildings have been subject to planning permission but have been in business uses for well over 10 years thus making them immune from enforcement action as defined in Section 171 B of the 1990 Act:

- for operational development - four years from the date on which the operations were "substantially completed". *This applies to all breaches of planning control consisting in the carrying out without planning permission of all forms of "operational development", namely, the carrying out of building, engineering, mining or other operations in, on, over or under land;*
- for breaches of planning control consisting in the change of use of any building (which, for the purposes of the 1990 Act, includes part of a building) to "use as a single dwellinghouse" - four years from the date of the breach. *This time-limit*



*applies either where the change to use as a single dwellinghouse involves development without planning permission, or where it involves a failure to comply with a condition or limitation subject to which planning permission has been granted;*

- *in the case of any other breach of planning control (ie other than those already referred to in sub-paragraphs (1) and (2) above) - ten years from the date of the breach. In practice, this ten-year time-limit therefore applies to breaches of planning control involving any material change in the use of land (other than a change to use as a single dwellinghouse) and to any breach of condition or limitation (including one where the breach is of an occupancy condition imposed on permission for the erection of a dwelling house, but not including one where the breach consists in using a building as a single dwellinghouse).*

In this instances all the buildings and the uses have been in existence for significantly more than ten years as can be demonstrated by the attached sworn statement from Andrew Lyke. The majority of the sites have remained with the same occupants or family members and it is possible to provide sworn statements if required however it is considered that the sworn statement from the land agent and attachments demonstrates continued uses on the site well beyond the period required to demonstrate immunity from enforcement action. Furthermore the Planning Contravention Notice served by the Council in May 2008 relates purely to use of the buildings not the buildings themselves. These applications are a response to this notice. It is intended to submit further applications to regularise the remaining 2 uses as identified by the Authority very shortly. Units 1, 2, 2a, 5, 6, 7 and 8 were regularised in 2012/2013.

Whilst it is accepted that the onus of proof is on the applicant to demonstrate that these uses have taken place over the specified period Annex 8 of Circular 10/87 clearly states that:

"the Courts have held that the relevant test of the evidence on such matters is "the balance of probability". As this test will accordingly be applied by the Secretary of State in any appeal against their decision, a LPA should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely "beyond reasonable doubt". Moreover, the Court has held (see *F W Gabbitts v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their own, or 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". The LPA should proceed on the basis that neither the identity of the applicant (except to the extent that he or she may or may not be able personally to confirm the accuracy of any claim being made about the history of a parcel of land), nor the planning merits of the operation, use or activity, are relevant to the consideration of the purely legal issues which are involved in determining an application."

Unit 4 is a flat roofed building originally occupied by Johns Water Services for a workshop and for storage until it was let in 2002 to Mr S Morgan a builder for a workshop and store. He vacated the property in the autumn of 2003 and the building was then let to Mr G Gibbons in early 2004 for the repairing of commercial vans and the storage of spare parts and the sale of parts and vans. Mr Gibbons continues to use the premises on this basis. Prior to 2003 part of the land surrounding the building has been used for external storage of vehicles and building materials and in 200 part of this yard was let to Reading and Harris for uses as a builders yard. They continue to occupy this area which is identified as Unit 3.

Unit 9 located in the western area of the site was originally occupied for storage purposes prior to 2003, as shown in Annex B of the accompanying sworn statement. The building was then let to Hereford Clearances . The attached Statutory Declaration provides evidence that rent was paid on this premises from 1 March 2013 by Hereford Clearances who continue to trade from the property, which is used for the storage of furniture and effects for sale mostly off the premises. Also for the repair and making good of the articles for sale. Some retail sales take place from the property but it is argued that this is de minimus and the use is B2/B8

Unit 10 comprises the airstrip and associated hangars and store. It is evident from the attached Statutory Declaration that the airstrip and store were used from the late 1990's by a number of micro light flyers. The property was recorded in the name of one of the flyers Mr Brian Crockett. During this period additional aircraft hangars were constructed for the storage of micro light air craft . In March 2011 the flyers formed a club known as Haywood Flyers and they rented the strip and the land on which the hangars stood. These hangars are used for the storage and repair of their aircraft. At the same time the old munitions building was let to Mr Morgan for storage and light fabrication. Mr Morgan vacated the premises at the end of September 2012 when the property was let to Central Vacuum Solutions on a 3 year lease for storage and workshop purposes. Unit 10 is therefore considered to be B2/B8.

It is evident from the details provided that a variety of mixed uses have taken place on the site for well over the ten year statutory period with no break in occupancy and thus these applications seek to regularise these uses for mixed B2/B8 uses and the airstrip to enable the current occupiers to continue to operate from these sites.

Should you require any further evidence please do not hesitate to contact me.

Yours faithfully

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[Redacted Signature]

Julie Joseph  
Planning Consultant

