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TOWN AND COUNTRY PLANNING ACT 1990

**CLARKS FARM
WASH LANE, LITTLE TOTHAM**

**Application for the re-siting and stationing of a
mobile home in connection with the keeping of
Greyhounds at the site.**

SUPPORTING INFORMATION

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CHARTERED SURVEYOR
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CLARKS FARM WASH LANE, LITTLE TOTHAM

Application for the re-siting and stationing of a mobile home in connection with the keeping of Greyhounds at the site

SUPPORTING INFORMATION

1. Clarks Farm is a former smallholding located on the west side of Wash Lane, and approximately equal distance between the villages of Little Totham and Goldhanger. The site extends to approximately 0.4 hectares and is too small to be used as a viable agricultural enterprise. Since 1999 greyhounds have been kept at the site and a caravan has provided accommodation for the Applicant at the site.
2. In 2002 the District Council granted planning permission for the retention of the use of existing buildings as 12 kennels for greyhounds and the construction of a building for 26 kennels and also a building for food preparation. (Application FUL/MAL/02/01211)
3. Construction work on the new kennels is under way and therefore the number of dogs kept at the premises will increase as a result of the permitted kennel accommodation.

4. In order to provide adequate care for the Greyhounds both during the day and also at night time it is essential that the Applicant can continue to remain at the premises.

5. This need is confirmed by the Applicant's vet, W. R. Steel of the Colne Valley Veterinary Practice. He states in a letter dated 20 December 2005 that "the greyhounds treated at the surgery often need twenty-four care due to the nature of the various operations and procedures carried out at the practice."

6. He also states that living-in would be recommended as stated in the 2005 Animal Welfare Act currently before Parliament. A copy of Mr. Steele's letter is produced in APPENDIX A.

7. Section 8 of the draft Bill referred to, imposes a duty of responsibility on all persons responsible for animals to ensure that the needs of animal welfare are met. A relevant extract from the Bill is produced in APPENDIX B.

8. Thus the Applicant would only be able to comply with this statutory requirement, when the Bill receives Royal assent, if accommodation was available at the kennels in order to ensure that twenty-four hour care is provided.

9. The Applicant has received correspondence from the General Manager of the Crayford Greyhound Track drawing attention to the requirements of the Animal Welfare Bill and the need for kennel owners to live on site. A copy of this letter is produced in APPENDIX C.

10. Further support has been received from the Police Community Support Officer. A copy of this letter is produced in APPENDIX D.

11. Annex A of Planning Policy Statement 7 sets out tests relating to occupational dwellings in the countryside. In this case the activity is rural based and has been granted planning permission. The use is already in place and the business is about to expand when additional kennels are completed.

12. Paragraph 4 of Annex A sets out the functional test that is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at all times. In this case it is essential for the Applicant to be readily available both during the day and also at night time in order to provide adequate care for the greyhounds. There are no dwellings on the site or in the immediate area which would meet this functional need.

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13. At this stage it is not essential to prove the financial test. However, information is provided to demonstrate that the business is currently viable and when the new kennels are complete the viability of the business will increase.

14. A letter from accountant Tracey Kelk of T.K. Accountancy dated 1st December 2005 states that she has no reason to doubt the financial viability of the business at this point in time. A copy of this letter is produced in APPENDIX E.

15. In addition, a breakdown of income and expenditure is provided by the applicant in APPENDIX F. This breakdown demonstrates that the profit at the present time is £1150 per calendar month. It is estimated that this profit will increase to £4850 per calendar month when the kennels are completed.

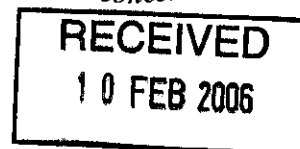
16. Against this background planning permission is now sought for the stationing of a mobile home at the site in order to enable the applicant to continue to provide the essential care for the greyhounds at the site.

Colne Valley Veterinary Practice

APPENDIX A

Main Surgery: Off Maudlyn Road, Colchester CO1 2GU
Branch Surgery: The Bungalow, Colchester Road, Wivenhoe CO7 9ET
Web Site: <http://www.colnevalleyvets.co.uk>

Tel: (01206) 794695
Tel: (01206) 826287
Fax: (01206) 791485



20th December

To whom it may concern

Clarks Farm Greyhounds is a client of ours and we would like to support their planning application to live at the kennels.

The greyhounds treated at the surgery often need twenty four hour care due to the nature of the various operations and procedures carried out by our practice.

Living in would be recommended as in the 2005 Animal Welfare Act currently before Parliament.

Yours sincerely



W R Steele

APPENDIX B

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Animal Welfare Bill

A BILL

To make provision about animal welfare; and for connected purposes.

*Presented by Secretary Margaret Beckett
supported by
The Prime Minister, Mr Secretary Prescott,
Mr Chancellor of the Exchequer,
Mr Secretary Clarke, Mr Secretary Hain
and Mr Ben Bradshaw.*

*Ordered, by The House of Commons,
to be printed, 13th October 2005.*

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25. This provision, which replaces section 1(1)(d) of the 1911 Act, creates offences relating to the administration to a protected animal of any poisonous substance or drug where the person has no lawful authority or excuse.

26. Under *subsection (2)*, when a person is responsible for an animal, he must not permit another person to administer a poisonous or injurious substance or drug to the animal, unless that person has a lawful authority or excuse. Furthermore, a person responsible for an animal must take reasonable steps to prevent any other person from administering any drug or substance that he knows to be poisonous or injurious to the animal.

27. Under this clause it is not necessary to show that the animal did in fact suffer as a result of the prohibited action in order to establish liability. It is, however, necessary to show that the person accused of the offence knew the poisonous nature of the substance administered to the animal.

28. *Subsection (3)* provides for the offences in *subsections (1)* and *(2)* to apply in cases where substances that are otherwise harmless have been administered in a harmful quantity or way.

Clause 7: Fighting etc

29. This clause creates a specific offence of animal fighting, which in the 1911 Act was subsumed under the general heading of "offences of cruelty".

30. The offences under the clause replace the offences under sections 1(1)(c), 5A and 5B of the 1911 Act.

31. *Subsections (1)* and *(2)* penalise various forms of involvement in an animal fight. The majority of the specific offences contained in the 1911 Act relating to advertising a fight, allowing premises to be used, accepting money for admission to an animal fight etc, are covered by *subsection (1)(a)* and *(b)*. Some of the offences under this clause can be committed without a fight having taken place.

32. *Subsection (3)* defines an animal fight as an occasion on which a protected animal is placed with an animal or with a human, for the purpose of fighting, wrestling or baiting. The provision applies to any protected animal which under clause 2 includes any animal under the control of man, whether on a permanent or temporary basis. As a result, a person commits an offence in relation to an animal fight even if there is no one who is responsible for either animal within the meaning of clause 3.

33. Legitimate pest control activities which involve the use of one animal to catch another will not fall within the definition of an animal fight, as the animals are not placed together for the purpose of fighting, wrestling or baiting.

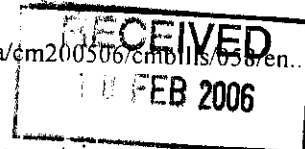
Promotion of welfare

Clause 8: Duty of person responsible for animal to ensure welfare

34. The welfare offence in this clause extends similar provisions found in the Welfare of Farmed Animals (England) Regulations 2000 (made under the Agriculture (Miscellaneous Provisions) Act 1968), which ensure the welfare of livestock situated on agricultural land, to non-farmed animals. A duty to ensure welfare will therefore apply to all animals for which someone is responsible, as defined in clause 3. Where someone is responsible for an animal, he has a duty to take steps that are reasonable in all the circumstances to ensure its needs are met to the extent required by good practice (*subsection (1)*).

35. Note that the duty will apply when a person abandons an animal for which he is responsible. The Abandonment of Animals Act 1960 is repealed and effectively replaced by this clause, and anyone who leaves an animal without taking reasonable steps to ensure that it is capable of fending for itself and living independently will commit an offence under clause 8.

36. Note also that when a person transfers responsibility for an animal to another temporarily, the duty will apply in so far as he must ensure that the person to whom he transfers responsibility will care



for it appropriately. Whether he fulfils his duty will depend on whether the steps he took to ascertain the competence of the person to whom he transferred responsibility were "reasonable in all the circumstances" under clause 8(1).

37. *Subsection (2)* specifies the needs that a person responsible for an animal is required to meet (to the extent required by good practice), in order to avoid committing an offence under the clause.

38. *Subsection (3)* specifies certain matters to which the courts should, in particular, have regard, when considering whether a person has committed an offence under this clause. The provision recognises that some otherwise lawful practices may prevent or hinder a person from ensuring that all of the welfare needs specified in *subsection (2)* can be met, and requires the courts to take such practices into account when considering what is reasonable in the circumstances of the case.

39. *Subsection (4)* clarifies that the killing of an animal is not in itself inconsistent with the duty to ensure its welfare, if done in an appropriate and humane manner.

Clause 9: Transfer of animals by way of sale or prize to persons under 16

40. *Subsections (1) and (2)* prohibit vendors from selling animals to any person under 16 in circumstances where they have reasonable cause to believe that the person is under 16. The prohibition applies equally to the direct sale of an animal and to any indirect sale that may accompany an otherwise legal transaction. The clause extends the scope of the existing offence in section 3 of the Pet Animals Act 1951, which prohibits the sale of pet animals to children under 12.

41. *Subsections (3) - (4)* provide that it is an offence to enter into an arrangement with a person reasonably believed to be under 16, who is not accompanied by an adult, whereby an animal is to be won as a prize, except in the circumstances specified.

Clause 10: Regulations to promote welfare

42. Clause 10 enables the Secretary of State and the National Assembly for Wales to make regulations, subject to affirmative resolution by Parliament, to promote the welfare of animals for which a person is responsible, or the progeny of such animals. Including the progeny of animals in this regulation-making power enables regulations to be introduced governing animal breeding that protect the offspring as well as the dam or sire.

43. *Subsection (1)* creates a general power to make regulations for the purpose of promoting the welfare of animals for which someone is responsible.

44. *Subsection (2)* provides a non-exhaustive list of purposes for which the regulation-making power in *subsection (1)* may be exercised. This includes power to make regulations specifying how people responsible for animals should meet their animals' needs (clause 56(5) provides that an "animal's needs" are to be understood as they are under clause 8(2)).

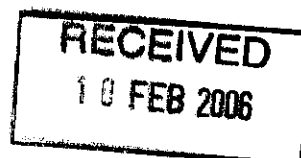
45. *Subsection (3)* authorises the appropriate national authority to make it an offence to breach specified provisions of the regulations and confers associated powers. The power to apply a "relevant post-conviction power" in relation to conviction for an offence under the regulations enables the regulations to provide that conviction for certain offences will have certain consequences. For example, the regulations could provide that, on conviction for breach of a specified regulation, the court should have power to disqualify a person from owning animals under clause 30. The phrase "relevant post-conviction power" is defined at clause 56(6).

46. *Subsection (6)* imposes a duty on the Secretary of State and the National Assembly for Wales to consult interested parties before introducing regulations under this clause.

Licensing and registration

Clause 11: Licensing or registration of activities involving animals

47. Under *subsection (1)* regulations made for the purpose of promoting animal welfare may require

**7 Fighting etc**

- (1) A person commits an offence if he—
 - (a) arranges an animal fight;
 - (b) knowingly participates in making, or carrying out, arrangements for an animal fight; 5
 - (c) makes or accepts a bet on the outcome of an animal fight or on the likelihood of anything occurring or not occurring in the course of an animal fight;
 - (d) takes part in an animal fight.
- (2) A person commits an offence if, without lawful authority or excuse, he is present at an animal fight. 10
- (3) In this section, “animal fight” means an occasion on which a protected animal is placed with an animal, or with a human, for the purpose of fighting, wrestling or baiting.

Promotion of welfare 15

8 Duty of person responsible for animal to ensure welfare

- (1) A person commits an offence if he does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice.
- (2) For the purposes of this Act, an animal’s needs shall be taken to include— 20
 - (a) its need for a suitable environment,
 - (b) its need for a suitable diet,
 - (c) its need to be able to exhibit normal behaviour patterns,
 - (d) any need it has to be housed with, or apart from, other animals, and
 - (e) its need to be protected from pain, suffering, injury and disease. 25
- (3) The circumstances to which it is relevant to have regard when applying subsection (1) include, in particular—
 - (a) any lawful purpose for which the animal is kept, and
 - (b) any lawful activity undertaken in relation to the animal.
- (4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner. 30

9 Transfer of animals by way of sale or prize to persons under 16

- (1) A person commits an offence if he sells an animal to a person whom he has reasonable cause to believe to be under the age of 16 years.
- (2) For the purposes of subsection (1), selling an animal includes transferring, or agreeing to transfer, ownership of the animal in consideration of entry by the transferee into another transaction. 35
- (3) Subject to subsections (4) to (6), a person commits an offence if—
 - (a) he enters into an arrangement with a person whom he has reasonable cause to believe to be under the age of 16 years, and 40
 - (b) the arrangement is one under which that person has the chance to win an animal as a prize.



APPENDIX C

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9 December 2005

Mr Steve Cobb
Clarks Farm
Wash Lane
Little Totham
Maldon
Essex
CM9 8LX

Dear Steve

Further to our conversation of today, I am writing to request an update regarding your living accommodation at Clarks Farm.

I explained that the 2005 Animal Welfare Act states that it is beneficial for the kennel owners to live on the site.

Please update me on your position.

Yours sincerely

Barry Stanton
General Manager



**APPENDIX D**
RECEIVED
10 FEB 2006Maldon Police Station
West Square
Maldon
Essex
CM9 7PAMrs Cobb
Clarke's Farm
Wash Lane
Little Totham**Ref: Proposed planning application for Clarke's Farm.**

Dear Mrs Cobb,

Following our discussion on the 27th November 2005 about your proposed planning application to enable the mobile home to become your residence, I'm offering my opinion on the advantages of the application being approved. I believe that due to the nature of the business, and the rural location, approval of the planning application would benefit yourself, your business, the local community, and the police accordingly.

I understand that you have resided at the premises since 1999 when you started up the greyhound kennels. As my appointment as the Police Community Support Officer for Little Totham in December 2004, I have attended your premises on a number of occasions on matters of police concern. The latest incident (police reference EP-20050504-0886) was regarding a number of males who tried to enter the property and when disturbed by the owner, they then claimed that they wanted to buy a dog. This instance shows that having the owner at the centre at all times of the day, acts as a powerful deterrent for possible future crimes.

There have also been incidents of local hare poaching and suspect vehicles on the land adjacent to the property, which further highlights the secluded and vulnerable location of the greyhound kennels.

As you have lived in the mobile home since 1999, and have made every step to follow planning procedure up to this point, I believe that it is the sensible option to allow you to reside at Clarke's Farm, and in the process, help protect and provide the best service for your greyhound kennel business.

Regards,

Heather Owen
Police Community Support Officer – 5 parishes
07958 379451

accountancy

APPENDIX E

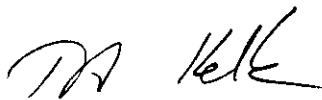
01/12/2005

TO WHOM IT MAY CONCERN

Dear Sirs

I currently act as accountant and business adviser to Mrs Sandra Cobb, trading as Clarks Farm Greyhounds of Clarks Farm, Wash Lane, Little Totham, Maldon. I have no reason to doubt the financial viability of the business at this point in time.

Kind Regards



Tracey Kelk FCA
TK Accountancy

Disclaimer:

Any accounts provided were not prepared by us or specifically for your needs and for this reason would not necessarily have addressed or reflected matters in which you may be primarily interested. Therefore we cannot accept any responsibility to you in relation to any such accounts and disclaim all liability to you in connection therewith.

CLARKS FARM

APPENDIX F

Wash Lane
Little Totham
Maldon
Essex
CM9 8LX
Tel: 01621 788315



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January 2006.

Clarks Farm Greyhounds Management Financial Statement

Current income is at present averaging approx = £6,800.p.c.m.

Present running cost are as follows;

Public, liability, buildings insurance
Commercial rates
Vehicle insurance fuel and bedding
Animal feed and bedding
Professional fees
Approx; £1850.p.c.m.

Leaving £4,950.p.c.m. which is divided as follows
2x part time staff 1 x full time employee.

= £3,800.p.c.m.

Profit.p.c.m. = £1150.00

After completion of kennels (currently under construction)-3 months time

The income will rise to £11,600.p.c.m.

There will be an increase in outgoing cost of which will be absorbed by

The rise in extra income.

New monthly outgoing to include all cost = £6750.00p.c.m.

This will leave a profit of approx= £4850.00.p.c.m.