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**Report of the Head of Strategic Investment**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 17-Aug-2017**

**Subject: Planning Application 2017/91267 Outline application for demolition of existing farm buildings and erection of 5 detached dwellings Dry Hill Farm, Dry Hill Lane, Denby Dale, Huddersfield, HD8 8YN**

**APPLICANT**

S Blyth, C/O Agent

**DATE VALID**

12-Apr-2017

**TARGET DATE**

07-Jun-2017

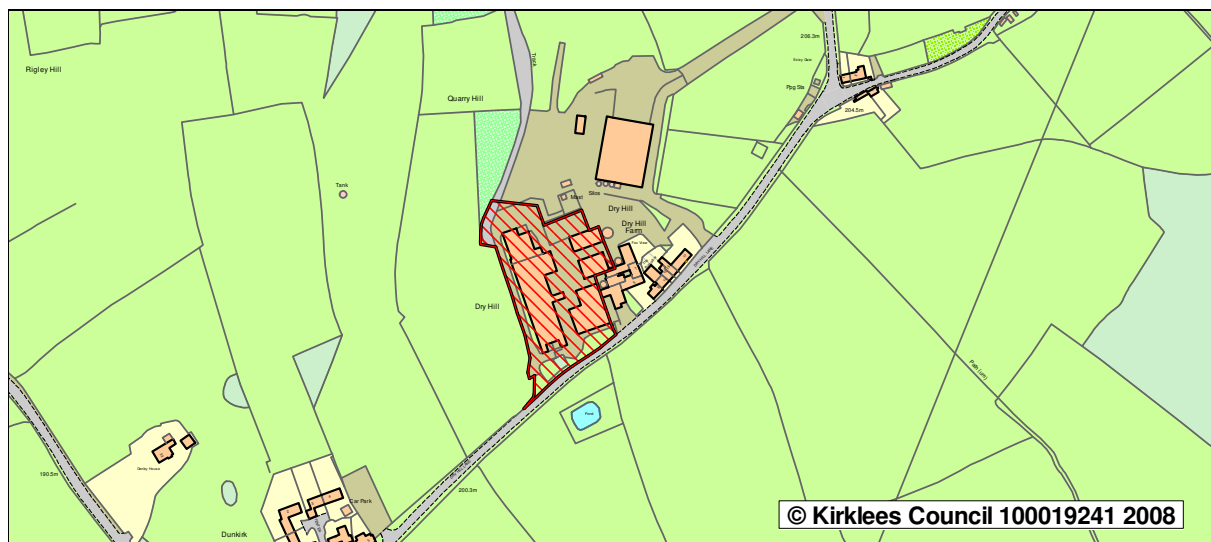
**EXTENSION EXPIRY DATE**

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral Wards Affected: Denby Dale**

Yes

Ward Members consulted

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**RECOMMENDATION:**

**REFUSE**

**1. The application site is located within the designated Green Belt whereby, as set out in the National Planning Framework (NPPF), the construction of new buildings is regarded as inappropriate development. The proposed development would constitute inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and which should not be approved except in very special circumstances. The evidence submitted with the application does not outweigh the harm that would result to the Green Belt by reason of inappropriateness and the harm to the openness and character of the Green Belt through new built form and the paraphernalia and activities associated with the domestic use of the site. Consequently, the very special circumstances that are required to grant planning permission do not exist, and the proposals would conflict with Chapter 9 of the National Planning Policy Framework.**

**1.0 INTRODUCTION:**

1.1 The application is brought to the Heavy Woollen Planning Sub Committee for determination due to previous Committee interest and because the site area exceeds 0.5ha. This is in accordance with the Council's Scheme of Delegation.

**2.0 SITE AND SURROUNDINGS:**

2.1 The site comprises of a large farm complex of approximately 0.7ha and contains a number of redundant agricultural buildings of typical, modern construction. The site is accessed directly from Dry Hill Lane and located adjacent to existing dwellings to the east and a large food processing plant to the north east. The land to the north and south is characterised by open countryside, also extending to the west where it meets a small residential development complex of converted buildings and a public house.

**3.0 PROPOSAL:**

3.1 The proposals relate to an outline application for the erection of 5 dwellings. This would involve the demolition of the existing farm buildings. The application seeks the matters of access and layout to be determined at this stage, and the submitted plans demonstrate a development of detached

dwellings with central access road leading to a turning head. Plots 1 to 3 would address Dry Hill Lane, whilst Plots 4 and 5 would be located to the north west of Plot 3, facing the access road.

#### **4.0 RELEVANT PLANNING HISTORY:**

4.1 2016/93148 – Outline application for the erection of 7 dwellings - refused

2016/93033 – Prior approval for proposed change use of agricultural building to one dwelling – approved

2016/91863 – Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – approved

2016/90950 – Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – withdrawn

2016/90866 - Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – withdrawn

2015/93255 – Outline application for erection of 8 dwellings – withdrawn

2014/93557 - Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – approved

2001/92858 – Erection of Dairy – approved

#### Land at Clough House Lane (in applicant's ownership)

2015/91740 – Erection of temporary farm workers dwelling – approved

2015/91728 – Prior notification for erection of agricultural building – details approved

2014/93951 – Erection of cattle shed – approved

2014/93799 – Erection of agricultural building and farm workers dwelling – withdrawn

#### **5.0 HISTORY OF NEGOTIATIONS:**

5.1 The current application follows the refusal of the previous application ref 2016/93148. The current application shows a reduction in the number of residential units proposed, and an amendment to the layout of the development. In addition, the applicant has provided the findings of a marketing exercise to support their view that the site is no longer viable for agricultural purposes. The applicant considers these factors, in addition to the information that was previously submitted at the time of the last application, to constitute 'very special circumstances', however Officers view remains unchanged.

## 6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

### Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 The site is located within the Green Belt on the Kirklees Unitary Development Plan.

BE1 – Design Principles  
BE2 – Quality of Design  
BE12 – Space about Buildings  
T10 – Highway Safety  
G6 – Land contamination  
EP11 – Ecological landscaping

### Kirklees Publication Draft Local Plan:

- 6.3 The application site is allocated as Green Belt on the Draft Local Plan.

PLP1 - Presumption in favour of sustainable development  
PLP11 - Housing  
PLP21 - Highway safety and access  
PLP22 - Parking  
PLP24 - Design

### National Planning Guidance:

- 6.4 National Planning Policy Framework.

Chapter 6 - Delivering a wide choice of high quality homes  
Chapter 7 - Requiring Good Design  
Chapter 8 - Promoting healthy communities  
Chapter 9 – Protecting Green Belt Land  
Chapter 10 - Meeting the challenge of climate change, flooding and coastal change  
Chapter 11 - Conserving and Enhancing the Natural Environment

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been publicised by site notice and neighbour notification letter. As a result of site publicity, 4 representations have been received. The concerns raised can be summarised as follows:

- Development could result in overshadowing and overlooking to adjacent dwellings
- Development may cause access issues along Dry Hill Lane for all current residents. Increased traffic at the 'Dunkirk' junction on Barnsley Road can only have a negative effect as this is already a busy and dangerous junction
- The houses are taking away the history of the farm and turning a once working farm into another housing estate
- Demolition of on the site has taken place without consideration to wildlife and welfare of the animals which remain on the site
- Development will result in noise disturbance to adjacent occupiers
- Development will spoil the landscape
- Applicant was given this land on the understanding that it would be kept as a farm
- Reduction from 7 dwellings to 5 is still too many dwellings

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**The Coal Authority:** No specific observations at this stage

**KC Highways Development Management:** Currently assessing additional information submitted to address concerns raised in their initial consultation response.

### **8.2 Non-statutory:**

**KC Biodiversity officer:** No objections

**KC Environmental Services:** recommend imposition of conditions

## **9.0 MAIN ISSUES**

- Principle of development
- Impact on openness of Green Belt/Very Special Circumstances
- Layout
- Scale and Appearance
- Residential Amenity
- Landscaping
- Highway issues
- Drainage issues
- Ecology
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 The site is within the Green Belt and paragraphs 87 and 88 of the National Planning Policy Framework (NPPF) apply. Paragraph 87 of the NPPF advises that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 requires that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
- 10.2 Paragraph 89 advises that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 10.3 The NPPF definition of previously developed land specifically excludes land that is or has been occupied by agricultural or forestry buildings.
- 10.4 The redevelopment of land in agricultural use does not form one of the exceptions set out in the NPPF. The development proposed is therefore considered to be inappropriate within the Green Belt.
- 10.5 The NPPF advises that inappropriate development is by definition harmful to the Green Belt and should not be approved except where very special circumstances clearly and demonstrably outweigh the harm. Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
- 10.6 The potential harm to the Green Belt arises from the impact of development upon the purposes of including land within it, the impact upon its openness and the impact that arises from any other harm.
- 10.7 Paragraph 79 of the NPPF stipulates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and permanence.
- 10.8 Paragraph 80 sets out the five purposes of Green Belt:
- To check the unrestricted sprawl of large built up areas
  - To prevent neighbouring towns merging into one another
  - To assist in safeguarding the countryside from encroachment
  - To preserve the setting and special character of historic towns; and
  - To assist in urban regeneration by encouraging the recycling of derelict and other urban land.

## **Impact on openness of the Green Belt**

- 10.9 The application site comprises a group of modern agricultural buildings on a concrete yard, some of which have been partially dismantled. The buildings are located to the east of a cluster of residential properties and a food processing plant, historically connected with the farm. The aspect to the north, south and west is significantly open.
- 10.10 Such agricultural buildings are characteristic of the Green Belt landscape. The proposed development would result in a significant change to the existing agricultural landscape, however the applicant asserts that it will serve to enhance the openness and character of the Green Belt when compared to the present form and position of the buildings on the site, and that the eventual appearance of the development will be in keeping and continuing the form and character of the existing residential development to the east, south and south east of the site.
- 10.11 The applicant states that they have arrived at the proposed number of dwellings through examination of the existing financial liabilities associated with the site. Officers acknowledge that the proposed development is likely to be constructed of good quality materials, in keeping with the character of existing residential development. Notwithstanding this, the proposed dwellings would appear as a new form of development on the site and one that would provide a significant change to the existing agricultural landscape, being highly visible from the northern, southern and western aspects. As such it is considered that the proposal would be a visual form of development within the Green Belt that would impact negatively on its openness and character. Therefore, the development would be harmful to the Green Belt and be contrary to guidance contained within Chapter 9 of the NPPF.

## **Very Special Circumstances**

- 10.12 The considerations presented by the applicant are set out in the supporting planning statement and supplementary information. These are as follows:
- 10.13 Existing Farming Operation and Proposed Farming Enterprise  
Dry Hill Farm is a redundant Farm. Permission has been granted for a new beef farming operation on Clough House Lane further to the north east (see relevant history). The existing buildings and farm yard are not appropriate for the applicant's proposed beef farming operation - the farm buildings and farmyard are not suitable to house the beef cattle due to modern farming requirements, more stringent regulations in hygiene and feeding arrangements. There would need to be significant investment and due to the complications stated above, the applicant considers that farming operations at this site must be moved with the site undergoing a change of use and re-development to residential. The applicant considers that where planning permission is not granted, the site is likely to fall into disrepair, become a blot on the landscape and pose a health and safety risk to the nearby residential properties and food processing plant.

10.14 Funding and Conversion of existing barns under the Prior Approval process

In order to fund the applicant's proposed farming enterprise and pay significant legal fees attached to his Father's will, he has submitted several applications for prior approval for change of use of the existing agricultural buildings to form dwellings. Approval has been given for the change of use of two of the modern agricultural buildings, in addition to a third stone building to the north east (just outside the red line boundary of the application site). However, the applicant states that the profit received from the sale of these will not fully cover existing costs and self-fund the development of the new farming enterprise.

The applicant states that where he cannot self-fund the construction of the new farming site at Clough House Lane, whilst there are other finance options potentially available, this will severely restrict the optimisation of the intended modern and sustainable agricultural facility, which he considers should be supported due to its rural location and the downturn in viable farming options locally, regionally and nationally.

10.15 Comparison of uses on the site and impact on openness and visual amenity

The applicant has provided the following comparison of the existing and proposed uses of the site:

	<b>Existing %</b>	<b>Proposed %</b>
Buildings	36	8.5
Concrete Hardstanding	45	8.2
Waste Land, sespit and grain stores	19	
Open land		43.3

The applicant calculates that the existing volume of buildings on site is 16264 cubic metres. The proposed residential development represents a total volume of 4924.9 cubic metres. As such, this contributes to a 69.7% reduction in the volume of buildings on the site. The applicant considers that the removal of the large volume of buildings and the movement of the vehicle store to the new farm location would improve visual amenity for the adjacent residential properties and should be considered to have less of an impact on the visual amenity of the Green Belt than the existing development.

10.16 Marketing of the site

Since refusal of the previous application ref: 2016/93148, the applicant has undertaken a marketing exercise in relation to the site. The site was marketed for 6 months and 3 enquiries were received. The applicant states that all enquirers were interested in the site due to the size and number of buildings available, however concerns were raised regarding the differing levels, poor condition of the concrete yard, and close proximity to the food processing plant and neighbouring dwellings.



The applicant considers that feedback resulting from enquiries supports the view that the farm buildings and yard surface require significant upgrading for any other uses permitted under the General Permitted Development Order. In addition, they state that piecemeal development would not be appropriate in this instance; therefore the cost to redevelop the site for other uses would be unworkable.

10.17 Location of the site and its suitability for residential use

The applicant accepts that the site is not in a central village location but is served by a bus route that runs hourly, and the school bus also serves the area. The site is located 15 mins walk from the centre of Denby Dale. Apart from the food processing plant to the rear of the site and the Dunkirk Public house, the remaining properties in close proximity are all residential properties. Furthermore, the applicant contends that the proposed development will contribute to much needed housing in the area and that this site should be welcomed by the Council as contributing towards improving housing figures

10.18 Recycling of Materials and Renewable Forms of Energy

The applicant considers that existing materials on the site could be re-used on the new farming operation at Clough House Lane, and that there are benefits to using renewables such as Ground Source Heat Pumps and Photovoltaics, which could be discussed at the reserved matters stage.

10.19 Contribution to new and sustained local employment

The applicant is of the view that the development would contribute to local employment through the construction phases and in the continuation of the farming operation at Clough House Lane. In particular, this would enable the continued employment of the existing herdsman who has been employed by the applicant for over 30 years.

10.20 The circumstances put forward by the applicant are material considerations, however they would only overcome the presumption against inappropriate development if they were considered (either by themselves or together with other circumstances) to constitute very special circumstances that clearly outweigh the harm caused to the Green Belt by inappropriateness and any other harm.

10.21 The existing development is appropriate within the Green Belt and therefore is not considered to be of harm to the openness of the Green Belt or the purposes of including land within it. The impact of the proposed development on the visual amenity of the Green Belt is not in itself a very special circumstance matter but can be weighed alongside other material considerations outside of the Green Belt assessment.

10.22 At the time of the applications relating to the applicant's new farming enterprise at Clough House Lane, the financial connection between that and the current proposal for residential development at Dry Hill Farm was not put forward. Those applications were assessed on the basis of the information submitted at the time.

- 10.23 Approval has been granted for the change of use of two of the modern agricultural buildings within the red line boundary of the application site to form dwellings under Part 1, Schedule 2, Class Q of the Town and Country Planning (General Permitted Development) Order 2015. Prior to these, another Prior Approval was granted for the change of use of a stone barn to dwelling adjacent the site to the north west. Under Class Q, applicants can seek approval for the change of use of agricultural buildings to form up to 3 dwellings. The current application seeks approval for 5 detached dwellings which would have a greater impact upon the openness of the Green Belt compared to the conversion of 3 existing agricultural buildings (which is a potential alternative based on the above circumstances).
- 10.24 The Council is unable to demonstrate a five year supply of available housing land sufficient to satisfy the requirements of the NPPF. Notwithstanding this, advice in National Planning Practice Guidance clarifies that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the “very special circumstances” justifying inappropriate development on a site within the Green Belt. Despite the lack of a 5-year supply of available housing land therefore, the proposed development is not considered to constitute ‘sustainable development’ in principle.
- 10.25 Officers consider that the information put forward by the agent does not constitute very special circumstances to outweigh the harm to the Green Belt by reason of inappropriateness or other harm and has not sufficiently overcome the previous reasons for refusal.

### **Layout**

- 10.26 The proposed development would constitute a cul-de-sac form of development, although Plots 1-3 would address Dry Hill Lane. This is out of keeping with the pattern of surrounding development; however it is acknowledged that the most recent Prior Approvals granted under Class Q could result in the siting of two conversions in similar positions to those of Plots 3 and 5.

### **Scale and Appearance**

- 10.27 The matters of the scale and appearance of the development are reserved for subsequent approval at the detailed stage, however the submitted information states that the proposed dwellings would be constructed of natural reclaimed stone with stone slate roofs. The use of such materials would be in keeping with the predominant character of existing residential development to the east, and would ensure that the development would accord with Policies BE1 and BE2 of the Unitary Development Plan.

### **Residential Amenity**

- 10.28 The impact of the development on residential amenity needs to be considered in relation to Policy BE12 of the Unitary Development Plan. Policy BE12 sets out recommended distances that should be achieved between existing and proposed dwellings.

- 10.29 The layout of the proposed development is such that the aims of Policy BE12 would be met both within the development itself and in relation to adjacent existing residential development.
- 10.30 The site is located in close proximity to the adjacent dairy/food processing plant, therefore in order to protect the amenity of future occupiers of the development arising from noise, it would be necessary for the applicant to submit a noise report to be approved by the Local Planning Authority, to ensure that the development would accord with Policy EP4 of the Unitary Development Plan.

### **Landscaping**

- 10.31 The submitted plans indicate that the front and rear portions of the site would take the form of paddocks, with some planting shown along plot boundaries and to the northern boundary of the site. As the matter of landscaping is reserved for subsequent approval, it is expected that further details would be submitted at the reserved matters stage.

### **Highway issues**

- 10.32 The proposed development would be accessed via a private driveway leading to Dry Hill Lane. Each dwelling would have a double garage and adequate off-street parking provision. The proposed layout indicates the access road to be 6.0m in width leading to a shared turning area.
- 10.32 There is an accident cluster at the junction of Dry Hill Lane and the A635 Barnsley Road (Dunkirk Pub). However, various improvements have been undertaken at the crossroads, with 1 accident within the last 2 years, attributed to low sun.
- 10.33 Since submission of the application, additional information has been received in the form of speed surveys and an amended site layout plan, in order to inform the visibility splay requirements and internal vehicle turning. This is currently being assessed by KC Highways Development Management and will be addressed in the update.

### **Drainage issues**

- 10.34 The development proposes to dispose of foul drainage via the existing mains sewer and surface water drainage to soakaways. No adverse comments have been received from consultees in respect of this matter.

### **Ecology**

- 10.35 Paragraph 118 of the NPPF states “when determining applications Local Planning Authorities should aim to conserve and enhance biodiversity” by applying a number of principles. These include the conservation and enhancement of biodiversity in and around developments. Considering the site location and nature of the buildings, the potential for roosting bats to be present is limited, and no further information is required to support the application.

- 10.36 UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. This matter could be dealt with by condition, should the application be approved.

### **Representations**

- 10.37 Four representations have been received from the occupiers of Fox View to the east of the site. Their concerns are addressed in the main body of the report.

### **Other Matters**

- 10.38 **Air Quality:** Paragraph 109 of the NPPF states that “the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution”. On relatively small new developments, this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This could be secured by planning condition, if the proposals were considered to be acceptable.
- 10.39 **Land Contamination:** The land may be contaminated due to the former use of the site as a working farm. As such, a series of conditions would need to be imposed to ensure this matter is addressed, should the proposals be considered to be acceptable, to ensure that the development accords with Chapter 11 of the NPPF.

## **11.0 CONCLUSION**

- 11.1 The proposed development is considered to represent inappropriate development in the Green Belt which would be harmful to the openness and character of the Green Belt.
- 11.2 The justification submitted by the Agent has been assessed. However, this is not considered to demonstrate very special circumstances that clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute what sustainable development means in practice.
- 11.4 The application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and that there are specific policies in the NPPF which indicate the development should be restricted.

## **12.0 Reason for Refusal**

1. The application site is located within the designated Green Belt whereby, as set out in the National Planning Framework (NPPF), the construction of new buildings is regarded as inappropriate development. The proposed development would constitute inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and which should not be approved except in very special circumstances. The evidence submitted with the application does not outweigh the harm that would result to the Green Belt by reason of inappropriateness and the harm to the openness and character of the Green Belt through new built form and the paraphernalia and activities associated with the domestic use of the site. Consequently, the very special circumstances that are required to grant planning permission do not exist, and the proposals would conflict with Chapter 9 of the National Planning Policy Framework.

### **Background Papers:**

Application and history files

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91267>

Certificate of Ownership – Certificate A signed