



Agenda Item 8

**ERECTION OF 4 DWELLINGHOUSES
AND CONSTRUCTION OF ACCESS
ROAD AT HOME FARM, DROVE LOAN,
HEAD OF MUIR, DENNY, FK6 5LH FOR
MR STEVEN RUSSELL - P/20/0170/PPP**

FALKIRK COUNCIL

Subject: **ERECTION OF 4 DWELLINGHOUSES AND CONSTRUCTION OF ACCESS ROAD AT HOME FARM, DROVE LOAN, HEAD OF MUIR, DENNY, FK6 5LH FOR MR STEVEN RUSSELL - P/20/0170/PPP**

Meeting: **PLANNING COMMITTEE**

Date: **26 August 2020**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Members: **Ward - Denny and Banknock**

Councillor Jim Blackwood
Councillor Fiona Collie
Councillor Paul Garner
Councillor Nigel Harris

Community Council: **Denny and District**

Case Officer: **Kevin Brown (Planning Officer), Ext. 4701**

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1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application for planning permission in principle proposes the erection of 4 dwellinghouses and associated access road on land within the greenbelt between Denny and Bonnybridge. The site is located to the immediate north of the M876 and is accessed via a private road onto Drove Loan which sits to the west of the site. This proposal represents a resubmission of an earlier proposal previously refused by the Planning Committee under application P/18/0461/PPP and dismissed on appeal to Scottish Ministers.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called in by Councillor Nigel Harris to allow further consideration of the application given the planning history of the site.

3. SITE HISTORY

- 3.1 P/19/0563/PPP - Application Returned - Erection of 4 Dwellinghouses and Construction of Access Road.
- 3.2 P/18/0461/PPP - Planning Permission in Principle - Refused 28 January 2019 - Erection of 4 Dwellinghouses and Construction of Access Road.

- 3.3 Matters Specified in Conditions – Granted 19 May 2017 - Erection of 2 Dwellinghouses (Matters Specified in Condition of Planning Permission P/14/0140/PPP).
- 3.4 P/16/0036/FUL - Detail - Granted 26 February 2016 - Change of Use from Holiday Cottage to Form Dwellinghouse.
- 3.5 P/16/0148/FUL - Detail - Granted 15 April 2016 - Change of Use of Holiday Cottage to Dwellinghouse.
- 3.6 P/16/0347/FUL - Application Withdrawn 11 August 2016 - Erection of Dwellinghouse (Part Retrospective).
- 3.7 P/16/0533/MS - Matters Specified in Conditions - Granted 30 September 2016 - Erection of Dwellinghouse (Part Retrospective) (Matters Specified in Condition of Planning Permission P/14/0140/PPP).
- 3.8 P/15/0360/75D - Agreement Discharged 2 November 2015 - Discharge of Planning Obligation attached to Planning Permission P/07/0584/OUT which provides that the two semi-detached holiday cottages to be erected on the site (being 360 square metres or thereby at Home Farm, Drove Loan, Head of Muir, Denny) in terms of the permission shall be used and occupied in all time coming for no other purpose than as holiday cottages under short-term holiday lettings.
- 3.9 P/14/0140/PPP - Planning Permission in Principle - Granted 1 December 2014 - Demolition of Existing Stables and Development of Land for Residential Use.
- 3.10 P/11/0344/FUL - Detail - Granted 5 September 2011 - Extension and Alterations to 2 Semi Detached Dwellinghouses to Form 1 Detached Dwellinghouse.
- 3.11 P/09/0745/FUL - Detail - Granted 8 February 2010 - Change of Use of Existing Stables (Half) to Form Gift Shop.
- 3.12 P/08/0826/REM - Reserved Matters - Granted 4 December 2008 - Erection of Coffee Shop.
- 3.13 P/08/0466/REM -Reserved Matters - Granted 7 August 2008 - Erection of 2 Semi-Detached Holiday Cottages.
- 3.14 P/08/0002/OUT - Outline - Granted 22 August 2008 - Erection of Coffee Shop.
- 3.15 P/07/0584/OUT - Outline - Granted 15 February 2008 - Development of Land for 2 Semi-Detached Holiday Cottages.
- 3.16 F/2003/1046 - Reserved Matters - Granted 30 January 2004 - Erection of Dwellinghouse.
- 3.17 F/2002/0813 - Detail - Granted 13 December 2002 - Deletion of Conditions 4 and 5 Contained in Planning Permission F/2002/0431.
- 3.18 F/2002/0431 - Outline - Granted 30 December 2002 - Erection of Dwellinghouse for Tourist Accommodation [Renewal of Permission F/96/0211].
- 3.19 F/96/0670 - Withdrawn 1 October 1996 - Change of Use of Holiday Accommodation Units for the Disabled to form 2 Dwellinghouses (Detailed).

- 3.20 F/96/0211 – Outline - Granted 14 June 1999 - Erection of Dwellinghouse for Tourist Accommodation (Outline).
- 3.21 F/95/0267 - Application Refused 17 October 1995 - Erection of Dwellinghouse (Outline).
- 3.22 Records prior to 1995 are incomplete.

4. CONSULTATIONS

- 4.1 Falkirk Council's Roads Development Unit have concerns over potential road safety issues arising as a result of the number of dwellinghouses proposed to be accessed via a sub-standard private access road. The proposal is not in accordance with the National Roads Development Guide.
- 4.2 Scottish Water has raised no objection.
- 4.3 Falkirk Council's Environmental Protection Unit request a Noise Impact Assessment and a Contaminated land condition.
- 4.4 Falkirk Council's Transport Planning Unit advise that the access road to the site is substandard with no pedestrian footway provision between the site boundaries and Drove Loan. The site is also poorly served by public transport with the nearest bus stops some 700m away from the site.

5. COMMUNITY COUNCIL

- 5.1 No comments were received from Denny and District Community Council.

6. PUBLIC REPRESENTATION

- 6.1 During consideration of the application, no letters of objection or representation were received.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

The Falkirk Local Development Plan was adopted on 16 July 2015. It includes a number of supplementary guidance documents which also have statutory status as part of the Development Plan. The proposed development was assessed against the following policy or policies:

7a.1 Policy CG01 - 'Countryside' states:-

The Urban and Village Limits defined on the Proposals Map represent the limit to the expansion of settlements. Land outwith these boundaries is designated as countryside, within which development will be assessed in the terms of the relevant supporting countryside policies (Policies CG03 and CG04), and Supplementary Guidance SG01 'Development in the Countryside'.

7a.2 The application site is located outwith the urban limits as defined by the Falkirk Local Development Plan and is within an area of countryside. The proposal therefore requires to be assessed against the countryside policies within the Falkirk Local Development Plan and Supplementary Guidance SG01 'Development in the Countryside'. The proposal does not accord with the countryside policies or guidance and is therefore contrary to policy CG01.

7a.3 Policy CG02 - 'Green Belt' states:-

1. *The following areas, as indicated generally on Map 3.1 and detailed on the Proposals Map, are designated as Green Belt:
Falkirk/Stenhousemuir/Grangemouth/Laurieston Corridor
Polmont/Grangemouth/Bo'ness/Linlithgow Corridor
Falkirk/Larbert/Denny/Bonnybridge Corridor
Callendar Park/Woods*
2. *The purpose of the Green Belt is:
To maintain the separate identity and visual separation of settlements
To protect the landscape setting of settlements; and
To protect and give access to greenspace for recreation*
3. *Within the Green Belt, development will not be permitted unless it can be demonstrated that the proposal satisfies the relevant countryside policies, and it can be demonstrated that it will not undermine any of the strategic purposes of the Green Belt as set out in sub section (2) above.*

7a.4 The application site is located within an area of green belt as defined by the Falkirk Local Development Plan. It has not been demonstrated that the development satisfies the relevant countryside policies. The proposal would undermine the purpose of the green belt by reducing the visual separation between settlements and eroding settlement identity. The proposal is contrary to policy CG02.

7a.5 Policy CG03 - 'Housing in the Countryside' states:-

Proposals for housing development in the countryside of a scale, layout and design suitable for its intended location will be supported in the following circumstances:

1. *Housing required for the pursuance of agriculture, horticulture, or forestry, or the management of a business for which a countryside location is essential;*
2. *Restoration or replacement of houses which are still substantially intact, provided the restored/replacement house is of a comparable size to the original;*
3. *Conversion or restoration of non-domestic farm buildings to residential use, including the sensitive redevelopment of redundant farm steadings;*

4. *Appropriate infill development;*

5. *Limited enabling development to secure the restoration of historic buildings or structures; or*

6. *Small, privately owned gypsy/traveller sites which comply with Policy HSG08.*

Detailed guidance on the application of these criteria will be contained in Supplementary Guidance SG01 'Development in the Countryside'. Proposals will be subject to a rigorous assessment of their impact on the rural environment, having particular regard to policies protecting natural heritage and the historic environment.

7a.6 The application has not been supported by any evidence to suggest that this housing is required to support any form of agricultural, horticultural or forestry business. The proposals do not represent a restoration or replacement of existing houses or the conversion of non-domestic buildings. The proposal does not represent a suitable form of infill development and does not take the form of enabling development. The proposal is not a gypsy/traveller site. The proposal represents undesirable and unjustified development within a countryside location and the proposal is therefore contrary to policy CG03.

7a.7 Accordingly, the proposal is contrary to the terms of the Falkirk Local Development Plan.

Supplementary Guidance Forming Part of Local Development Plan

Supplementary Guidance SG01 'Development in the Countryside'

7a.8 This guidance sets out the circumstances within which the council may support new development within a countryside setting. The proposed development does not fall within any of the criteria set out in this guidance and the development therefore represents undesirable and unjustified growth within the countryside. The proposal is therefore contrary to the terms of this guidance.

7b Material Considerations

7b.1 The material considerations to be assessed are Consultation Responses, Site History and Supporting Information, the Proposed Falkirk Local Development Plan 2 (LDP2) and Consideration of the Site in relation to Coal Mining Legacy.

Consultation Responses

7b.2 The Council's Roads Development Unit has expressed concerns in relation to the number of dwellinghouses which would be served by the private access serving this site. The proposal does not propose to upgrade the existing private access to a road. The existing private access is currently restricted in terms of width and alignment. There is no footpath provision and the street lighting is substandard. The proposal would intensify the use of this private access which is not considered to be in the best interests of road safety and which would be contrary to the terms of the National Roads Development Guide.

Site History and Supporting Information

- 7b.3 The application site and surrounding area has been the subject of a number of previous planning applications relating to riding school and stables infrastructure, holiday home accommodation, dwellinghouses, café and a shop. The most recent planning history relates to application P/18/0461/PPP for the same proposal as is the subject of this current application. P/18/0461/PPP was refused planning permission by the Planning Committee in January 2019. The applicant submitted an appeal to Scottish Ministers in February 2019, on the basis that the appeal site was, in their view, brownfield land owing to the previous operation of a riding school from the site and the payment of business rates associated with horse grazing. They made the case that the housing was justified in policy terms as it is proposed as retirement housing and for accommodation for the directors of the coffee shop which operates from Home Farm. It was also argued that precedent for this form of development had been set elsewhere in the Falkirk Council area. They also argued that the access road to the site was within their ownership and could accommodate the scale of development proposed following the closure of the Riding School.
- 7b.4 The Reporter appointed by Scottish Ministers agreed with the Council that the proposed housing did not meet the definition of brownfield land set out within the local development plan or Scottish Planning Policy. The Reporter agreed with the Council that the previous payment of business rates on an area of grazing land is not definitive evidence that the requisite planning permissions for that particular land use were in place and considered that the site should not be treated as part of the same planning unit as the now demolished riding school. The Reporter agreed with the Council that the appellant had not provided sufficient robust or credible evidence to support the need for accommodation at this location.
- 7b.5 The Reporter concluded that the proposed development did not accord with the relevant provisions of the development plan and that there were no material considerations which would justify granting planning permission. Scottish Ministers dismissed the appeal in accordance with section 25 of the Town and Country Planning (Scotland) Act 1997, as amended.
- 7b.6 Further to the previous application and appeal, the applicants make their case for the current proposal based on the following comments and submissions:

Assessor's Letter

- 7b.7 A letter from the Assessor's Unit has been submitted which appears to confirm that business rates were paid on the land subject of this application.
- 7b.8 This point was considered at length by the Council and the Reporter during the assessment of application P/18/0461/PPP and it should be reiterated that the previous payment of business rates does not mean that the land is considered as 'Brownfield Land' for the purposes of planning policy assessment.
- 7b.9 'Brownfield' sites are defined within the Falkirk Council Local Development Plan as "land that has been previously developed or used for some purpose which has ceased. Excludes open space, garden ground, etc."

- 7b.10 Scottish Planning Policy (SPP) defines brownfield land as “Land which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused building and developed land within the settlement boundary where further intensification of use is considered acceptable”.
- 7b.11 The land which is the subject of this application is within the countryside and has historically been used as grazing land. From the available historic planning application records, it is not clear whether planning permission was ever granted for the grazing use of this land by horses. Of the historic records which are available, none contain application site boundaries which extend to the area of land which is the subject of the current application.
- 7b.12 In addition, a recent appeal decision (APP/V0728/W/18/3207383) in Redcar and Cleveland Borough Council provides useful clarification on this issue. The appeal focused on whether the site in question represented ‘previously developed land’. A number of parallels between the current application and this appeal can be drawn. In particular, the site subject to the appeal covered two distinct areas, one containing a variety of buildings, parking / circulation areas and enclosures relating to the operation of a livery yard and riding school, and another comprising of two grassed paddocks. The Reporter concluded that whilst ownership may cover the whole site and whilst the paddocks were undoubtedly used in connection with the riding school operation, this does not outweigh the distinctly separate nature of the paddocks resulting from the physical layout of the site. The paddocks were not deemed to be so integral or intimately associated with the grouping of buildings as to be considered to be part of the same curtilage. Rather than be within the curtilage of the buildings of the riding school, the Reporter took the view that they were instead adjacent to it. As a matter of fact and degree, the Reporter concluded that the paddocks were not within the curtilage of the buildings and do not therefore constitute previously developed land.
- 7b.13 It is considered that the circumstances of the current application are similar to that of this appeal decision. The grazing land which forms the application site is distinctly separate to the grouping of buildings at Home Farm and the previous riding school site. The grazing land is also separated from the grouping of buildings by a well established boundary fence. It is considered that the recent appeal decision outlined above supports the conclusion reached by the Planning Committee and Scottish Ministers in relation to the previous application, P/18/0461/PPP, that the current application site is not brownfield land for the purposes of planning policy assessment.

Terms of the National Roads Development Guide (NRDG)

- 7b.14 The applicant makes the point that the NRDG suggests a greater degree of flexibility be applied when considering access road requirements for developments on Brownfield Land. This guidance is not disputed but does not diminish the concerns of the Roads Development Unit who have consistently resisted additional development being accessed via this substandard road. It is noted that some lighting is provided along the access road and that the applicant is willing to install a footway. The quality of the existing lighting is not clear. It is also not clear whether there is sufficient space to allow provision of a footpath along the access road whilst maintaining adequate carriageway widths.

Site area for P/14/0140/PPP extends into this field

- 7b.15 It is not disputed that the application site boundary for P/14/0140/PPP partially extended into this particular field however, this does not set a precedent for further development in this field. The current application site boundaries do not overlap with the application site boundary for P/14/0140/PPP and the current proposal requires to be assessed on its own merits. The current proposal represents a significant incursion into the countryside and green belt in this location.

Missing records

- 7b.16 The applicant maintains that as the planning records from 1983 and 1995 are incomplete, a full and competent assessment of the previous planning application could not therefore have been undertaken.
- 7b.17 It is accepted that records for the original riding school are incomplete. This does not however prevent a competent assessment of the current proposals from being undertaken. Of the available planning application files, for developments that have been granted on the Home Farm site, none include a red line application boundary covering the application site which is the subject of this application. It is not disputed that the site has historically been used for grazing horses but it remains unclear whether this was ever formally authorised by way of a grant of planning permission. Further, the classification of this site as brownfield land or otherwise has no direct bearing on the assessment of this application against current local plan policy. The site is located within the countryside and within the green belt. The relevant local plan policies and guidance applicable do not offer any support for residential development on this land irrespective of whether it is classified as brownfield land or not.

Falkirk Local Development Plan 2 (Proposed Plan)

- 7b.18 The Proposed Falkirk Local Development Plan 2 (LDP2) was submitted to Scottish Ministers in July 2019. Unresolved representations to the Proposed LDP2 were considered through the LDP Examination which took place between October 2019 and March 2020. The Examination Report, containing the reporters' recommendations in relation to each of the representations, was published on 31 March 2020, and these recommendations were approved by the Council on 30 June 2020. The next step is for the Council to publish notification of its intention to adopt the plan as modified, and to submit the Modified Plan to Scottish Ministers prior to adopting it. Adoption is scheduled for early August 2020. Pending adoption of the new plan, the Proposed LDP2, read in conjunction with the Examination Report, constitutes a material consideration and should be given significant weight in the determination of planning applications. The relevant policies contained within the Proposed Falkirk LDP2 and the approved changes from the Examination Report are not considered to be materially different from those within the current adopted plan and, in this instance, would not result in the proposal being assessed differently.

Consideration of the Site in Relation to Coal Mining Legacy

7b.19 The application site falls within or is partially within the Development Low Risk Area as defined by the Coal Authority. However, as coal mining activity was undertaken at depth, no recorded surface hazards currently exist which could pose a risk to new development. Unrecorded coal mining related hazards could still exist. It is not necessary to consult the Coal Authority on any planning applications which fall within the Development Low Risk Area. Where planning permission is to be granted, an appropriate informative note appears on the Decision Notice.

7c Conclusion

7c.1 The proposal is an unacceptable form of development which is contrary to the Development Plan. There are no material planning considerations that warrant a grant of planning permission in this instance.

8. RECOMMENDATION

8.1 It is therefore recommended that the Planning Committee refuse planning permission for the following reason(s):-

- 1. The development proposed represents undesirable and unjustified development within the countryside to the detriment of environmental quality and the established rural character of the area. The proposal is contrary to the terms of policies CG01 'Countryside' and CG03 'Housing in the Countryside' of the Falkirk Local Development Plan as well as Supplementary Guidance SG01 'Development in the Countryside'.**
- 2. The proposal represents undesirable and unjustified development within the Green Belt which would undermine the primary function of the Green Belt by reducing visual separation between settlements and eroding settlement identity. The proposal is contrary to policy CG02 'Green Belt' of the Falkirk Local Development Plan.**
- 3. The proposal represents a pedestrian and road safety hazard due to the increased traffic which would be generated on an existing private access road of restricted width and alignment and which does not benefit from adequate street lighting or footpath provision. The proposal is contrary to the terms of the National Roads Development Guide.**

Informative(s):-

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01.

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pp Director of Development Services

Date: 17 August 2020

LIST OF BACKGROUND PAPERS

1. Falkirk Local Development Plan.
2. Falkirk Local Development Plan 2 (Proposed Plan).
3. Supplementary Guidance SG01 'Development in the Countryside'.

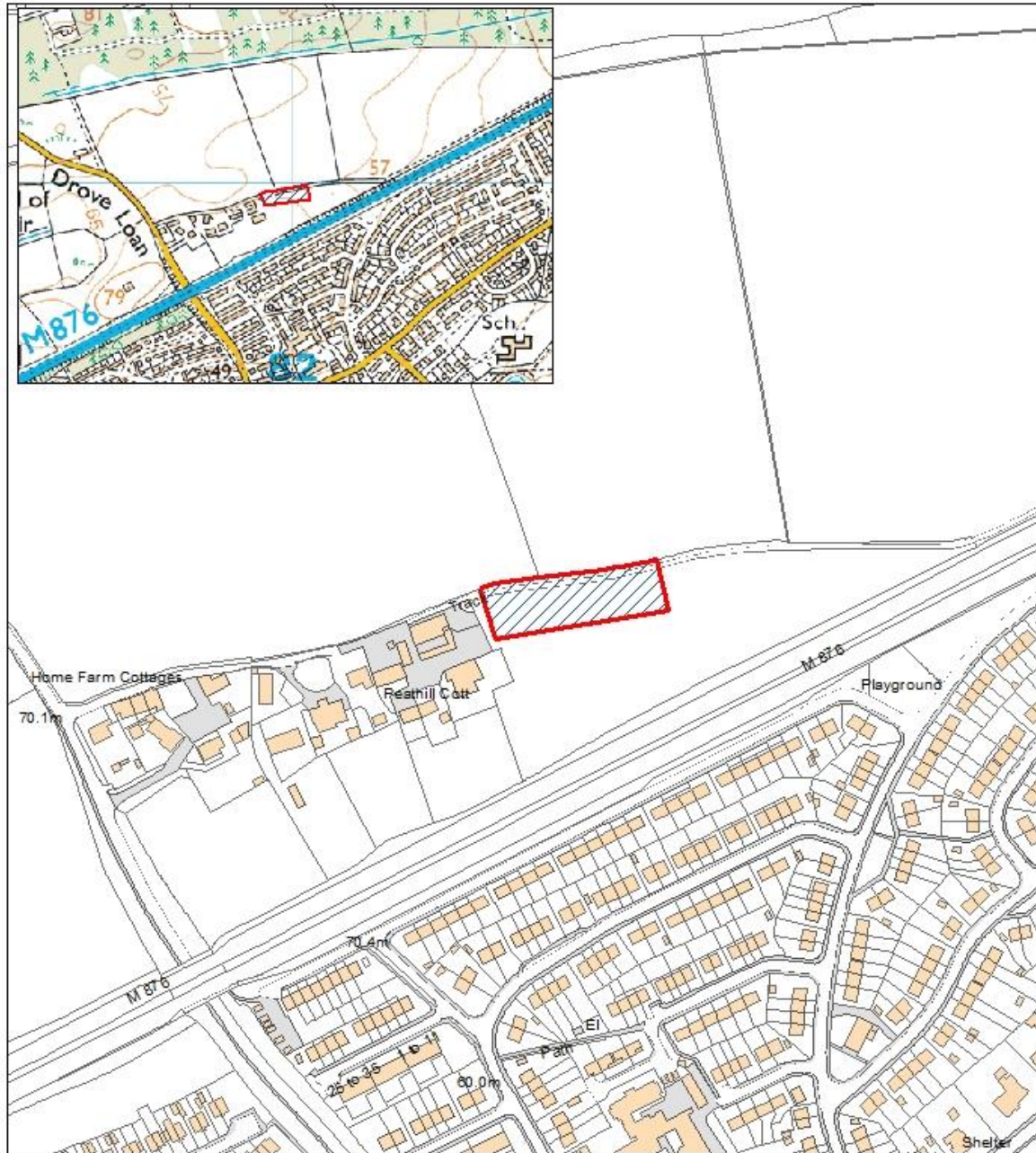
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504701 and ask for Kevin Brown, Planning Officer.

Planning Committee

Planning Application Location Plan

P/20/0170/PPP

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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