

Perth and Kinross Council  
Planning & Development Management Committee – 6 June 2018  
Report of Handling by Interim Development Quality Manager (Report No. 18/189)

**PROPOSAL:** Erection of 2 dwellinghouses

**LOCATION:** Land south of Crook of Devon House, Main Street, Crook of Devon

Ref. No: 18/00228/FLL  
Ward No: P8- Kinross-shire

### **Summary**

This report recommends approval of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

### **BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 This application relates to an area of land to the south of the commercial property known as Crook of Devon House (former Manse), located centrally within Crook of Devon. At present the site is a vacant area of ground that extends to approximately 3821sqm and is currently partly used as a car parking area for the neighbouring commercial business to the north of the application site operating within the former manse. The site contains a number of mature trees which line the perimeter of the site and provide an important degree of visual containment.
- 2 Planning permission in principle was first approved on the site in 2007 for the erection of two dwellinghouses within the application site. This 2007 consent was subsequently renewed in 2010, 2013 and most recently in 2016. An in principle permission for the site therefore remains extant. A detailed application for three dwellings (ref 16/01747/FLL) was refused planning permission as the proposed development was not considered to be compatible with the amenity and character of an area by virtue of the density of the proposed development. Additionally, insufficient information had been provided in relation to trees, protected species and drainage.
- 3 This current proposal is for two detached dwellings with integral garages. The houses are of the same design but one is handed. The dwellings have an L shaped footprint and are gable ended with double garages to the front. The finishing materials for the houses are grey concrete roof tiles, off white render, larch cladding, sandstone chimney and base-course with grey framed doors and windows.

- 4 Access will be taken from the existing road which joins Main Street (A977) Parking and turning is adequately provided for within the site.
- 5 During the consideration of the application the drawings were revised for two changes, firstly to remove a low wall which was proposed to define the access road and secondly, the footpath link which connects the site to St Serfs Road has been reinstated. Notifiable neighbours and any person who had made a representation were-notified of these changes.

## **NATIONAL POLICY AND GUIDANCE**

- 6 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

### **National Planning Framework**

- 7 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

### **Scottish Planning Policy 2014**

- 8 The Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
  - The preparation of development plans;
  - The design of development, from initial concept through to delivery; and
  - The determination of planning applications and appeals.

- 9 The following sections of the SPP will be of particular importance in the assessment of this proposal:
  - Sustainability : paragraphs 24 – 35
  - Placemaking : paragraphs 36 – 57

### **Planning Advice Notes**

- 10 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
  - PAN 40 Development Management

- PAN 51 Planning, Environmental Protection and Regulation
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 68 Design Statements
- PAN 69 Planning and Building standards Advice on Flooding
- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places

### **Creating Places**

- 11 Creating Places is the Scottish Government's policy statement on architecture and place. It sets out the comprehensive value good design can deliver. It notes that successful places can unlock opportunities, build vibrant communities and contribute to a flourishing economy and set out actions that can achieve positive changes in our places.

### **Designing Streets 2010**

- 12 Designing Streets is the first policy statement in Scotland for street design and marks a change in the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It has been created to support the Scottish Government's place-making agenda, alongside Creating Places, which sets out Government aspirations for design and the role of the planning system in delivering these.

### **National Roads Development Guide 2014**

- 13 This document supports Designing Streets and expands on its principles and is considered to be the technical advice that should be followed in designing and approving of all streets including parking provision.

### **DEVELOPMENT PLAN**

- 14 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

### **TAYPlan Strategic Development Plan 2016-2036**

- 15 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:
- 16 *"By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs."*

## **Perth and Kinross Local Development Plan 2014**

- 17 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

- 18 The principal relevant policies are, in summary

### **Policy PM1A - Placemaking**

- 19 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaption.

### **Policy PM1B - Placemaking**

- 20 All proposals should meet all eight of the placemaking criteria.

### **Policy PM3 - Infrastructure Contributions**

- 21 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

### **Policy RD1 - Residential Areas**

- 22 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where they are of recreational or amenity value. Changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

### **Policy NE3 - Biodiversity**

- 23 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

## **Policy NE2B - Forestry, Woodland and Trees**

- 24 Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of individual trees or woodland cover is unavoidable, mitigation measures will be required.

## **Policy CF2 - Public Access**

- 25 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

## **Proposed Perth and Kinross Local Development Plan 2 (LDP2)**

- 26 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 was approved at the Special Council meeting on 22 November 2017. The Proposed LDP2 sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014.
- 27 The Proposed LDP2, as approved by Perth & Kinross Council, was subject of a 9 week period of representation, which ended on 2 February 2018. Any unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 28 The Proposed Plan represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. The Proposed Plan is, however, at a stage in the statutory preparation process where it may be subject to modification. As such limited weight can therefore currently be given to its content and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision. The weight of the Proposed Plan may change following consideration of representation received during consultation, at which time the level of significance of any objection to strategy, policies or proposals within the plan will be known.

## **SITE HISTORY**

- 29 06/02527/OUT Erection of 2 dwellinghouses with garages (in outline)  
Application Approved 28 April 2007 under delegated powers

- 30 10/00162/IPL Renewal of existing consent (06/02527/OUT) Erection of 2 dwellinghouses with garages (in principle) 3 March 2010 Application Approved 3 March 2010 under delegated powers
- 31 13/00071/IPL Renewal of planning consent (10/00162/IPL) Erection of 2 dwellinghouses with garages (in principle) 13 March 2013 Application Approved 13 March 2013 under delegated powers
- 32 16/00034/IPL Renewal of permission (13/00071/IPL) Residential development (in principle) 22 February 2016 Application Approved 22 February 2016 under delegated powers
- 33 16/01747/FLL Erection of 3no dwellinghouses 23 December 2016 Application Refused 23 December 2016 under delegated powers

### **CONSULTATIONS**

- 34 As part of the planning application process the following bodies were consulted:

#### **External**

- 35 **Scottish Water** No objection

#### **Internal**

- 36 **Environmental Health** Condition recommended ensuring appropriate use of proposed stoves in the interests of air quality.
- 37 **Transport Planning** No objection and no conditions recommended
- 38 **Contributions Officer** No contributions required
- 39 **Access Officer** Advice given on right of way query

### **REPRESENTATIONS**

- 40 The following points were raised in the 10 representations received:

- Detrimental visual impact
- Inappropriate design including height and materials
- Out of character
- Loss of footpath
- Loss of trees/damage to trees
- Impact on biodiversity and protected species
- Wall bounding access road not in keeping
- Overlooking
- Provision of play facilities required

- 41 The amendments to the plans did remove one objection and addressed the issues raised in other representations regarding the footpath and wall.

## **ADDITIONAL STATEMENTS**

42

Environment Statement	Not Required
Screening Opinion	Not Required
Environmental Impact Assessment	Not Required
Appropriate Assessment	Not Required
Design Statement / Design and Access Statement	Not Required
Reports on Impact or Potential Impact	Tree Survey and Ecological Assessment submitted

## **APPRAISAL**

- 43 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014 (LDP). The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves consideration of the Council's other approved policies and supplementary guidance, in this case the Placemaking Guide is relevant.

### **Principle**

- 44 The site is located within the settlement boundary of Crook of Devon where Policies RD1 Residential Areas and PM1A & PM1B Placemaking of the LDP are directly applicable. The presence of existing mature trees on the site and potential protected species also means that Policy NE2B Forestry, Woodland and Tree and NE3 Biodiversity are relevant.
- 45 Policy RD1 states that residential amenity will be protected and, where possible, improved. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.
- 46 Policy PM1A and PM1B seeks to ensure that all developments contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.
- 47 Policy NE2B outlines that there will be a presumption in favour of retaining existing woodland resources and where there are existing trees on a development site, any application should be accompanied by a tree survey. Policy NE3 seeks to ensure that protected species are not negatively impacted by development.

- 48 As the site is located within a residential area it is considered that the principle of residential development is acceptable. It is also acknowledged that the site has a valid extant in principle consent for residential development (Ref: 16/00034/IPL). The details of the proposal in relation to design, trees and biodiversity are covered in subsequent sections.

### **Design and Layout**

- 49 The proposed dwellings have two levels of accommodation with the upper floor accommodated in the roofspace utilising wallhead dormers. The dwellings are detached with an integral garage projection to the front. The dwellings are positioned centrally within the site to achieve private amenity space for the new residents and also to maintain the root protection areas of the retained trees on the boundaries. To achieve this, the dwellings are positioned forward of the closest neighbouring dwelling (Kintail). However there is no established building line in this part of the area and therefore the central positioning within the site is considered to be acceptable. The plots are 866 and 1193sq metres with the dwellings not occupying more than 25% of the plot. The gardens are in excess of 100sq metres and the plots reflect the size of existing house plots in the area.
- 50 There is a variation of dwelling heights in the vicinity with single storey dwellings at St Serfs Rd and a mix of one and two storey dwellings at West Crook Way. To the immediate west of the site is a house of similar form to those proposed i.e. two floors of accommodation utilising wallhead dormers and beyond is a full two storey dwelling. It is therefore considered that the height of the proposed dwellings are acceptable and in keeping with the existing buildings in the immediate vicinity of the site.
- 51 The finish materials are grey concrete roof tiles, off white render, larch cladding, sandstone chimney and base-course with grey framed doors and windows. In terms of detailed design the proposed houses are of a high standard and whilst I note that concerns have been expressed regarding them being out of character with the housing in the immediate area, it is considered that they would not appear out of place given the mixture of styles and palette of materials in Crook of Devon.

### **Residential Amenity**

- 52 The dwellings are located to the east of an existing property which shares a boundary with plot 1. The other neighbouring properties which are at West Crook Way and St Serfs Rd are separated from the site by mature planting and a footpath.
- 53 The dwellings have the majority of the windows facing north and south which mitigates any potential overlooking. The exception is a kitchen window on the west elevation of Plot 1. This window is considered to be acceptable as it is at ground floor level and the boundary treatment will be a beech hedge which will provide adequate screening. This window also faces an access drive and not private amenity space. The dwellings rear elevations also have large amounts



of glazing however the depth of the gardens is in excess of 18 metres far more than the 9m window to boundary guideline to achieve privacy and mitigate overlooking. Additionally, to the south, the site bounds an area of Public Open Space and therefore there is an even greater distance to reach the gardens of the nearest dwellings.

- 54 The dwellings will have stoves within the lounge areas which will be exhausted out through chimneys and each property will also have a second stove within the open plan family/dinning/kitchen areas which will be exhausted out through a flue to terminate above the roof ridge of each property. The accumulative output range of all four stoves will not adversely affect local air quality as the emissions should adequately disperse. A condition is required to ensure the appropriate fuel is used and the stoves maintained satisfactorily (condition 7).

### **Visual Amenity**

- 55 The proposal is for a residential development of two dwelling houses in what is considered to be a well contained site within a residential area. In particular, the southern and eastern boundaries of the site contain mature trees on the boundaries which significantly assist in providing this contained site. It is therefore considered that the proposal would have no detrimental impact on the wider visual amenity of the area.

### **Trees**

- 56 It is noted that a number of trees have recently been removed from the site, the most notable being trees along the western boundary. The applicant has clarified that they were not responsible for the removal of the trees in 2016 and this was undertaken by the vendor selling the site at the time. Whilst the loss of these trees is unfortunate there are still a substantial number of mature trees located around the perimeter of the site which have a substantial presence in the local landscape and provide a significant degree of containment to the site.
- 57 The application was supported by a tree survey of the whole site This Tree Survey identified that several trees had a limited safe future life expectancy on account of their poor condition and the presence of significant defects. In particular, the two large beech trees on the western boundary at the entrance to the site were considered vulnerable in this respect. These two trees are extremely exposed to the prevailing winds and are considered to be at high and increasing risk of collapse of major limb failure. The recommendation therefore was to remove these two trees if any residential development was to take place. The recommendations from the Tree Survey have dictated the layout and form of the proposed development to ensure all built development remains out with the root protection areas of the remaining trees.
- 58 Conditions will be added to ensure that all trees to be retained are protected during construction and that all new landscaping is implemented and maintained (conditions 3 – 6).

## **Natural Heritage and Biodiversity**

- 59 A Preliminary Ecological Appraisal (PEA) report has been submitted with the application. The report has considered all ecological aspects with the presence of bats and birds noted within the site. It has also been stated in letters of representation that red squirrels have returned to the site recently although this is not detailed in the PEA report.
- 60 Two trees are to be removed as described above. These have been identified as having high bat roost potential and as such will require further investigation prior to work commencing as described in the PEA recommendations. The further investigations will also allow consideration of red squirrels and allow the survey to be updated. Alternative bat roosts should be provided on site as described in the PEA recommendations. Conditions will be added to cover these issues.(condition 2)

## **Footpath**

- 61 A number of objectors have raised concerns in relation to the loss of the existing footpath that provides access from the site through to St Serfs Road. The footpath provided access between the former manse and the church but has now been informally incorporated into the network of paths which serves the wider community and still provides access to the church. Whilst this path does not appear to be part of any publically adopted footpath network or core path it evidently still provides an important pedestrian connection for local residents.
- 62 The original plans showed a low wall to be built around the access road to close off the vehicular access and also a fence to enclose plot 2 was proposed which extended to the north closing off the footpath.
- 63 It is considered that this footpath should be retained and incorporated as part of the redevelopment of the site. Its position relative to the developable area of the site does not appear to raise any substantial issues and its retention would also be beneficial to the amenity of the proposed houses with better access being provided to surrounding area, including the park to the south.
- 64 The agent was contacted regarding the access issues and they agreed to retain the footpath link and remove the low wall defining the access. The plans were updated to reflect this and those who made representation were notified. This has therefore resolved the access issues.

## **Roads and Access**

- 65 Part of the site has formerly been used as a carpark for the adjoining commercial property but is no longer required. This business has another access and parking area to the north that it currently utilises.

- 66 The two plots will have their own parking and turning facilities and there is an existing access onto Main Street from the site. My colleagues in Transport Planning have assessed the proposal and are satisfied with the proposal.

### **Drainage and Flooding**

- 67 Scottish Water has no objection however this does not confirm that the proposed development can currently be serviced. This would be considered through an application to Scottish Water.
- 68 Soakaways are proposed within the site boundaries to accommodate surface water drainage. In principle this is considered to be acceptable and the details will be covered at a later date through the Building Standards process.

### **Waste Collection**

- 69 All domestic properties require an appropriate storage area for a minimum of 3 bins (1 for general waste, 1 for garden & food waste and 1 for dry mixed recyclates/paper) and suitable access/surface to wheel the bins from the storage area to the kerbside where they must be presented for collection. This can easily be accommodated at the site.

### **Developer Contributions**

- 70 The Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.
- 71 This proposal is within the catchment of Fossoway Primary School. Education & Children's Services have no capacity concerns in this catchment area at this time. A contribution is therefore not required.
- 72 There is no affordable housing requirement as the development is for less than 5 dwellings. There is also no requirement for developments of this scale to contribute to open space provision including play facilities.

### **Economic Impact**

- 73 The development will provide economic investment through the short term construction period and indirect economic investment of future occupiers of the associated development.

### **LEGAL AGREEMENTS**

- 74 No legal agreement required

## **DIRECTION BY SCOTTISH MINISTERS**

- 75 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 76 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 77 Accordingly the proposal is recommended for approval subject to the following conditions.

## **RECOMMENDATION**

### **Conditions and Reasons for Recommendation**

- 1 The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason - To ensure the development is carried out in accordance with the approved drawings and documents.

- 2 Prior to the commencement of development, an updated ecological survey shall be undertaken as described in the PEA recommendations in relation to bat roost potential and additionally red squirrels shall be added to the survey. The updated survey shall be submitted to the Council as Planning Authority for further written agreement and shall be fully adhered to, respected and undertaken as part of the construction phase of development.

Reason - In the interests of protecting environmental quality and of biodiversity.

- 3 All trees on site, other than those marked for felling on the approved plans, shall be retained to the satisfaction of the Council as Planning Authority.

Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

- 4 Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees

in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.

Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

- 5 The detailed landscaping and planting scheme which is hereby approved shall be implemented as part of the site development programme and thereafter maintained to the satisfaction of the Council as Planning Authority.

Reason - In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.

- 6 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size, species and number.

Reason - In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme

- 7 The stoves shall be installed, operated and maintained in full accordance with the manufacturer's instructions and shall not be used to burn fuel other than that approved for use by the manufacturer of the appliance as detailed in the information supporting this permission.

Reason - In order to safeguard the residential amenity of the area.

## **B JUSTIFICATION**

- 80 The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

## **C PROCEDURAL NOTES**

- 81 None.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.

- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD for a new postal address. The form is downloadable from [www.pkc.gov.uk](http://www.pkc.gov.uk) and should be returned to [snn@pkc.gov.uk](mailto:snn@pkc.gov.uk).
- 6 The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.
- 7 The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Background Papers: 10 letters of representation

Contact Officer: Joanne Ferguson

Date: 24 May 2018

**ANNE CONDLIFFE**  
**INTERIM DEVELOPMENT QUALITY MANAGER**

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