

**CITY OF YORK LOCAL PLAN
EXAMINATION IN PUBLIC**

**STATEMENT OF CASE
PHASE 3 HEARINGS**

**PREPARED ON BEHALF OF
JOSEPH ROWNTREE HOUSING TRUST**



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MATTER 8 – NON-STRATEGIC HOUSING ALLOCATIONS (ASIDE FROM H59)

8.2 If their development is to be governed by general development control policies, is this sufficient?

Directions Planning Consultancy are agent to a number of developers with land located in City of York district and we have been submitting planning applications for a variety of different development proposals over the last decade or so. Consequently, we have experience of drafting and submitting a variety of planning applications, including on both allocated and non-allocated sites to City of York Council.

For example, we have submitted an application for development of site H46 on behalf of JRHT. The development is for 117 dwellings under reference 20/02495/FULM. At the same time, we have submitted two further applications for residential development on sites within the same vicinity for six dwellings under reference 22/00456/FUL and 14 dwellings under reference 22/00440/FULM.

In all instances, the nature of supporting information required to accompany the applications has been standard for the type of development. We have largely ignored the Council's Local Validation Checklist, because it is more than three years old and is therefore out of date. Instead, we have reviewed the matters we consider pertinent to the applications and also referenced general policies and guidance. Given the nature of the development, there is no reason to suspect the Council would require information over and above what is typical for such applications. This has been confirmed through the application process in each instance where we have not been asked for any further reports in addition to those originally submitted.

There have, however, been discussions and negotiations regarding a number of matters, including planning obligations, compensatory habitats, the need for separate cycle ways to footpaths, and bin stores but none of these matters are particular to the allocation of site H46 or the other two applications. To this end, it would be useful if several of the matters raised by consultees, particularly in relation to bin and bike stores were addressed in general development control policies given the standard nature of comments being returned but where there is no planning guidance in the public domain that might have been referenced in advance of the applications being submitted.

As far as we are aware, the purpose of allocating land within a Local Plan is to provide certainty in the supply of land over the Plan period. Allocating land is not, however, supposed to then introduce onerous or additional requirements that might not otherwise be sought from windfall sites.

As such, the process of drafting the Local Plan provides certainty that the sites are deliverable, suitable and available. In respect to site H46, the Council's assessment and our own understanding of the site does not suggest there is any need for additional policies or site-specific requirements. This has been borne out through the application process.

We therefore do not believe a site-specific policy for each of the general housing allocations is required. Instead, further development control policies would be useful.

8.3 Are these sites deliverable?

We are the agents for site H46: Land to North of Willow Bank, New Earswick. We can confirm the site is deliverable. A planning application has already been submitted under reference 20/02495/FULM. Determination of the application is currently dependant on agreeing alterations to the drainage design following further survey work and also agreeing the Section 106 Agreement. All other matters have been addressed to the satisfaction of the Case Officer and statutory consultees.

Before submitting the application, the scheme was subject to a viability appraisal by JRHT to ensure it would be financially viable. JRHT intend to build the properties and retain ownership, which means being assured that the development will cover the initial costs over its lifetime. The properties will be offered for rent or shared ownership by JRHT with a policy-compliant proportion being offered for Council nominations. Development is expected to commence upon granting of planning permission.

We would suggest that for the Local Plan to be up to date and accurate, it should be updated to reflect the site area of the planning application, along with the amount of open space to be provided and also the number of homes being proposed. The allocation under Table 5.1 refers to only 104 dwellings whereas the application is for 117 dwellings, as a former garage site to the south of site H46 has been incorporated into the application scheme.

8.4 Are there any site-specific issues relating to any of them?

I can confirm there are no site-specific issues that would alter the proposed allocations or prevent site H46 from being developed. In relation to site H46, planning application 20/02495/FULM is for 117 dwellings rather than the capacity referenced in Table 5.1 for 104 dwellings. This is because the site area of the application is 4.71 ha, which includes a former garage site to the south and also a slightly different area of open space to the east of the site.

It transpires that there are several easements crossing the site which mean there are 10m wide strips crossing the site that are undevelopable. Furthermore, Council Officers have required the corridor of trees along the northern boundary to be kept free of development.

Also, there has been an insistence that footpaths and cycle paths are to be kept separate, wherever possible. Ecological mitigation with the creation of new compensatory habitats has also taken up areas of otherwise developable land. These matters have all reduced the extent of the net developable area and require a technical solution by the applicant, but none are fundamental to preventing the site from being delivered or considered suitable.

8.5 Where relevant, are the Green Belt boundaries of these sites reasonably derived?

In relation to site H46, the site has never been considered to be within the general extent of the green belt, although the eastern boundary does form a boundary with the inner green belt boundary. We have enclosed a copy of a letter under Appendix Two prepared in support of application 20/02495/FULM, which explains how the site has never been considered to be within the green belt.

In terms of defining the inner green belt boundary along the edge of New Earswick, the proposed boundary is located in the correct position against the edge of site H46. However, there is an anomaly on the south side of the site where an extremely slim finger of green belt is defined penetrating into the urban extent of York. The effect is that the artificially applied green belt boundary acts to sever New

Earswick from Huntington. This is an anomaly where the significance is only emphasised further when considered in light of how the Council treat New Earswick and Huntington as one community, including in relation to open space and education provision within the Local Plan and when negotiating planning obligations.

Any sense of there being one community, is however, limited to administration purposes only given that the green belt boundary only serves to preserve a physical distinction between the two suburbs of the same city. There is no policy reason for the green belt boundary to include the sliver of land on the south side of H46 and instead the development boundary should continue to follow the line of the eastern boundary of site H46.

We raised this same concern in our response to the proposed modifications consultation in July 2021, when we made the point in relation to Section 5 EX/CYC/59 Topic Paper 1: Green Belt, Boundary 11-15 East of Woodland Place to the rear of Pollard Close.

In terms of the five purposes of Green Belt, the narrow finger of land does not check the unrestricted sprawl of York because the land penetrates into the urban extent of the settlement. As such, it does not serve to contain development in any respect. With regard to preventing neighbouring towns merging, it has already been concluded that York is to be viewed as one settlement and the various neighbourhoods are not a group of separate 'towns' that should not be merged. To this end, Green Belt is not the correct means by which to maintain the separation between the two districts of New Earswick and Huntington.

With respect to safeguarding the countryside from encroachment, the land is visually contained and does not form part of the wider countryside that requires safeguarding. If the countryside surrounding York is to be protected against encroachment, then the boundary needs to be drawn around the outer edge of the urban area rather than any of the fingers of greenspace that penetrate the urban extent of the City. With regard to preserving the setting and special character of the historic city, the Council's own assessment makes clear how this site does not aid the understanding of the historical relationship of the city to its hinterland.

Finally, the land is part of a river corridor so is subject to flood risk. This means that its development potential is limited so it does not need to be designated Green Belt to assist urban regeneration.

Furthermore, the Council's assessment within EX/CYC/59d concludes *"the land within the proposed boundary is:*

- *Not identified in the Green Belt appraisal work as being of primary importance to the setting of the historic city [SD107];*
- *Included as amenity Green Space and Natural/ Semi Natural Open space [SD085].*
- *Entirely within Regional Green Corridor 3 (Foss Corridor) [SD080].*
- *Within a high flood risk zone to the eastern edge;*
- *Not included in any nature conservation designations.*

The open land within the proposed boundary is therefore not suitable for development in line with the Local Plan strategy."

If the land is not of primary importance to the setting of the historic city and simply open space that is subject to flood risk then it appears self-explanatory that the boundary should exclude the 'finger' and be drawn across the 'mouth' to create an east / west boundary as a continuation of the outer extent of the urban area. There is absolutely no need to include the 'finger' within the Green Belt when it does not form part of the open countryside beyond the urban edge of York and there are other policies that might otherwise prevent inappropriate development.

We would therefore kindly ask that this matter is reviewed and the green belt boundary drawn in an appropriate location to follow the edge of the woodland and extent of development.

APPENDIX TWO: HISTORY OF SITE H46 AND ITS EXCLUSION FROM THE GREEN BELT

09 November 2021
Willow Bank Green Belt Case 091121.doc



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Dear Mrs Tyas

GREEN BELT NOTE CONCERNING PLANNING APPLICATION 20/02495/FULM FOR RESIDENTIAL DEVELOPMENT OF WILLOW BANK, NEW EARSWICK

Following receipt of comments from the Council's Planning Policy Team, I am writing to set out our understanding of the current planning policy designation of the planning application site at Willow Bank, New Earswick.

In the comments, we note reference is made to how the site is located within the general extent of the York Green Belt and so very special circumstances need to be demonstrated to justify the proposed development. However, our understanding is that the site forms part of the urban extent of York and is outside of the general extent of the Green Belt. We are therefore writing to explain our understanding of the planning policy history for the site.

History of the York Green Belt

The current extent of the York Green Belt was first designated under policy E8 of the North Yorkshire Structure Plan in 1980. At this time, the Structure Plan did not define detailed Green Belt boundaries. The Structure Plan instead made provision for a Green Belt to encircle York, with an outer boundary about six miles from the city centre. Six miles from the centre was subsequently established to be measured from Sampson's Square in York.

The Structure Plan was then superseded by the Yorkshire and Humber Regional Spatial Strategy (RSS) in 2008. Policy YH9C specifically refers to the general extent of the York Green Belt and the need for York City Council (CYC) to establish a detailed inner boundary. The purpose for defining an inner boundary is stated to be *"in order to establish long term development limits that safeguard the special character and setting of the historic city."*

The adopted Regional Spatial Strategy included a 'Key Diagram' (figure 1 below) to illustrate the spatial implications of the various planning policies in the document. In respect to the York Green Belt, the Key Diagram illustrates the general extent of the Green Belt designation, whereby a donut is shown to encircle the City.



The annotation within the RSS was purposefully shown to be a donut and it was quite deliberately drawn to not touch the urban edge of the City or invade the spaces in between the fingers of development that protrude from the centre of York. The purpose of the designation being shown as a donut was to make clear the inner boundary was the responsibility of CYC to define and that the final position needed to take account of the future development requirements of the City. The intention was for the annotation to communicate to CYC that they were to allocate whatever land would be required around the edge of the City in order to meet development needs. The concern expressed at the time was that if the boundary was drawn too tightly then it would suggest to CYC that the boundary should be drawn tight up against the urban edge. Hence, the presence of white within the inner ring and the lack of precision to the graphic.



Figure 1: Excerpt of the RSS Key Diagram showing the general extent of the Green Belt encircling York

The Structure Plan and the RSS are strategic documents that were only ever intended to identify the principle of there being a Green Belt encircling York, whereby local planning policies were expected to identify the detailed inner boundary and outer boundary. The process for designating the detailed boundaries is therefore through the respective local plans each local planning authority is required to prepare.



History of the Designation of the Site at Willow Bank

To date, the neighbouring local planning authorities have identified in their local plans the full extent of the outer boundary to the York Green Belt. The inner boundary has, however, still to be formally designated. This is because CYC has not had an adopted local plan since 1956, which predates the adoption of the Green Belt policy in 1980. There have, however, been several iterations of various draft local plans for York that determine whether the site at Willow Bank is within or outside of the general extent of the York Green Belt.

Originally, New Earswick was within the district of Ryedale and so plans and policies for the settlement were subject to the Southern Ryedale Local Plan. A draft version of this plan was being prepared at the same time as a local plan for the City of York. However, local authority restructuring was underway at the same time, and so the inquiries into the two plans were jointly conducted at the start of the 1990s. The joint inquiry into the two local plans both dealt with the site at Willow Bank. In both instances, the site was considered to form part of the urban extent of York and the undeveloped site was included within the proposed development limits for York. However, objectors wished to see the land included within the Green Belt. The Inquiry therefore focused on whether the site should be 'included' or 'excluded' from the Green Belt.

With reference to papers that formed part of the joint Southern Ryedale Local Plan and York Green Belt Local Plan Inquiry, it is worth noting the evidence put forward by the responsible authorities, who were North Yorkshire County Council and Ryedale District Council.

In respect to the York Green Belt Local Plan Inquiry, North Yorkshire County Council stated in their Proof of Evidence (NY219) concerning the land off Willow Bank and the site of Hartrigg Oaks Care Home (which was still an undeveloped site at the time) how *"The County Council has carefully considered the detailed boundary of the Green Belt around New Earswick and has concluded that the sites adjoining Haxby Road have properly been excluded from the Green Belt for the following reasons.*

Firstly, the sites do not fulfil any of the five purposes of Green Belts as set out in PPG2:-

- a) *To preserve the special character of the historic City of York*
This purpose is fulfilled by the major open spaces which penetrate into the urban area of the City from the surrounding countryside along the eastern and western sides of New Earswick and which separate the village from, respectively, the major suburbs of Huntington to the east and Clifton Without to the west. The objection sites do not encroach either visually or physically on these wedges. The County Council concludes therefore that their exclusion from the Green Belt would not harm the principal purpose of the York Green Belt.
- b) *To prevent neighbouring towns from merging into one another*
This purpose is fulfilled by the wedge of open countryside lying between Park Avenue and the Joseph Rowntree School and the southern limit of built development in Haxby, along Haxby Road in the vicinity of Crompton Terrace. The physical integrity of this wedge would not be reduced by excluding the objection sites or the adjoining Park Avenue or Joseph Rowntree School from the Green Belt.
- c) *To check the unrestricted sprawl of large built-up areas*
This purpose is discharged by the green wedges running into the urban areas to the east and west of New Earswick ad by the strip of countryside connecting between these two wedges which lies to the north of Park Avenue and the Joseph Rowntree School and guards against the coalescence of New Earswick with Haxby to the north.
- d) *to safeguard the surrounding countryside from further encroachment*
In the County Council's view the objection sites lie within the settlement limits of New Earswick, being contained by the main area of the village to the south and by the outlying residential properties on Park Avenue and the complex of buildings comprising the Joseph Rowntree School to the north. As such they constitute open spaces within rather than beyond the existing built-up area. Their exclusion from the Green Belt would not therefore represent encroachment into the surrounding countryside.



d) To assist urban regeneration

This purpose is not considered to be relevant in the context of the York Green Belt.

Secondly, the sites do not meet the criteria to be taken into account when defining the boundaries of Green Belts in Local Plans set out in approved County Structure Plan Policy E8a. Criteria (i) and (ii) of this policy refer respectively to the need to regulate the size and shape of urban areas and to prevent the coalescence of existing settlements. They essentially reflect the two purposes of Green Belts identifies in PPG2 referred to in b) and c) above. Criterion (iii) refers to the need to preserve areas of open land extending into the urban area from surrounding countryside which have an existing or potential recreational or amenity value. In the vicinity of New Earswick the County Council believes this relates specifically to the major wedges running into the City around the B1363 and along the River Foss. Criterion (iv) refers to the need to preserve easy access to open country and outdoor recreation in pleasant surroundings. While the County Council notes the importance of safeguarding the footpath link across the objection sites, it considers this objective can be secured without including either objection site in the Green Belt."

With regard to the Southern Ryedale Local Plan Inquiry, Ryedale District Council explained in their Proof of Evidence (RD51) how *"The District Council concurs with the view of the County Council, concluding that the site does not perform those Green Belt functions identifies in PPG2 and Policy E8a of the Structure Plan. The site does not prevent coalescence of established settlements or regulate the urban area in order to check unrestricted urban sprawl. Nor is it considered to make a significant contribution to the historic setting of York, or provide easy access to pen countryside.*

The District Council considers, however, that the character and visual qualities of the site significantly contribute to the local landscape and in particular the quality and setting of New Earswick village. The site 'reads' very much as part of the village when perceived from Haxby Road or the public footpaths that criss-cross the area in the vicinity of the site."

Subsequent to the joint Inquiry into the two draft local plans, the Inspector published his report. In respect to the land off Willow Bank, the Inspector's Report sets out how *"Site C44 does not perform any Green Belt functions."* Part of the reason given was that *"The construction of New Earswick was in response to social rather than planning ideals. There has been no continuing masterplan, but rather a continuing response, in the form of a series of ad hoc development, to changing circumstances. Thus the village has always been evolving and has never been completed. There has been no rigid external boundary other than that which is due to the accident of land ownership.*

...The open land to the east of site C44 which separates Huntington and New Earswick makes a substantial contribution to the wider landscape, but site C44 itself is largely separated from that land. It has a purely local function at best."

Despite the Inspector issuing a report following the conclusion of the joint Inquiry, neither the York Green Belt Local Plan or the Southern Ryedale Local Plan were adopted because of local authority reorganisation. Instead, City of York Council began the process of preparing a City of York Local Plan following inception.

Since this time, there have been a number of draft local plans that pre-date the current Local Plan Publication Draft (February 2018) and that have been relied upon by CYC in the determination of planning applications. This is despite having not been through the full process to allow for the formal adoption of the documents. As such, these draft documents have only ever been given 'limited material weight' in the determination of planning applications.

In both the 1995 draft version and the 2005 draft version of the City of York Local Plan, the site at Willow Bank has been included within the urban extent of York and identified as white land or else for open space / public recreation within development limits. This is consistent with the historic consideration of the site as not falling within the general extent of the Green Belt. Figures 2 and 3 below are excerpts from the Proposals Maps that quite clearly show the site to be within the development limits for York. In both versions of the draft local plans, the land at Willow Bank has formed part of the urban extent to York, despite it being



undeveloped. Even after the change in the identity of the responsible local planning authority for New Earswick, these draft documents affirm the opinion that the site has historically been associated with the urban extent of York, rather than the countryside beyond.

The background papers to the Publication Draft version of the Local Plan (February 2018), serve to reaffirm how the site does not contribute to the purposes of Green Belt due to the historic character of the site. This is clear within document TP1 Approach to Defining York's Green Belt Addendum – Annex 3 (March 2019) where Section 5, Boundary 10 in relation to the boundary for site H46 it is stated *“The proposed boundary has associations with historical features and has been established for a significant period of time. This definition is reinforced by containing the limits of the urban area in this location where it meets less dense and more open land uses. The layering of different boundary features in the form of historical as well as current built and natural features offers strength and resilience to change.”*

These comments explain how the site has not been excluded because of the need for the land for development, but because of the presence of built and natural features that form robust boundaries, which are historic. The conclusion also quite clearly states how the proposed boundary *“has been established for a significant period of time.”* If the boundary has been established for a significant period of time and considered to be historic then it follows that it must predate the latest draft Local Plan given it is a recent publication and not itself historic.

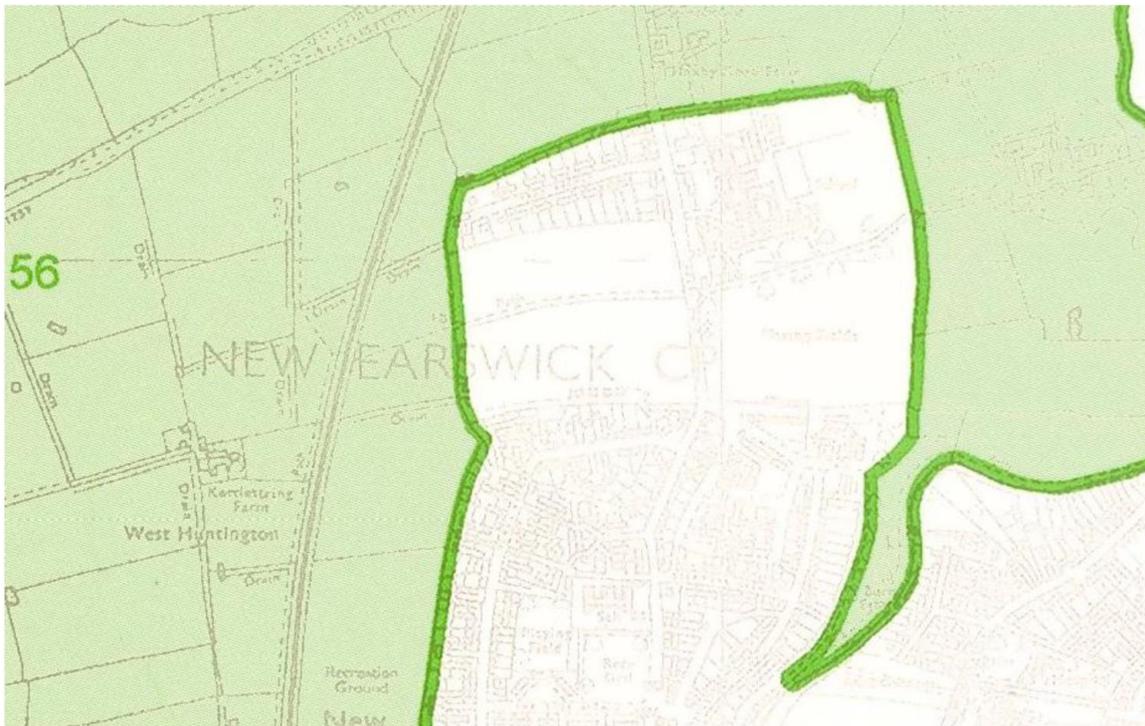


Figure 2: Excerpt from the 1995 CYC Draft Local Plan Proposals Map



Figure 3: Excerpt from the CYC 2005 Draft Local Plan Proposals Map

Character of the Site at Willow Bank

There has been a consistent view through time that the site forms part of the urban extent of York, which is quite clear from the documents referenced within this letter that date back over the last 40 years. A somewhat longer period than any Green Belt boundary is expected to endure and also the age of the current draft Local Plan.

The reason a consistent approach has endured, despite the responsible local planning authority changing, is due to the character of the land and how it relates to the urban extent of York rather than the open countryside beyond. This is in part because of the history of the site and how it was originally used by the adjacent school for playing fields. Playing fields are an urban land use rather than rural land use due to the way in which the land is managed and the general character of the formal setting out of pitches.

Additionally, the land immediately to the north, west and south is developed, whilst to the east there is a strong buffer of mature woodland. Collectively, these land features serve to physically and visually contain the site. The site is, therefore, well contained by existing and mature features. The defined boundaries act to contain the site with the urban extent of York where no part of the site protrudes into the open countryside beyond. Furthermore, the physical containment of the site prevents views from being gained out of the site, which also confirms how the site has little relationship with the countryside beyond.



Any opinion now being expressed that the site is within the general extent of the Green Belt appears to be on the basis that undeveloped land on the urban edge of York must automatically be part of the wider open countryside unless otherwise allocated for development. This is not, however, true. In the case of the site at Willow Bank, the land has always been associated with the urban extent due to the character of the site, its historic use and ownership. We are, therefore, of the opinion that the land is not part of the general extent of the Green Belt, and should not be treated as such in the absence of an adopted City of York Local Plan that identifies the inner Green Belt boundary.

It appears that the comments raised by the Council's Planning Policy Team concerning the application fail to acknowledge the history of the site over the last 40 years in respect to the consistent inclusion of the site within the urban extent of York and exclusion from the Green Belt. We would therefore kindly ask that the Planning Policy Team review their comments in light of the information now set out within this letter.

Very Special Circumstances

In the Planning Policy Team's comments, the point has been raised how it is necessary to demonstrate very special circumstances on the basis that the site is within the general extent of the Green Belt. We do not, however, consider the site to be within the general extent of the Green Belt for the reasons set out in this letter, which means we are of the opinion that there is not a requirement to demonstrate very special circumstances.

Just because the playing fields are devoid of development does not automatically mean the site is within the general extent of the Green Belt. It is the general character and relationship to existing development that determines that the site forms part of the urban extent of York rather than the wider rural countryside beyond. As such, the site cannot be part of the general extent of the Green Belt because it is not within the wider rural countryside beyond the developed extent of York. For this reason, there is no requirement to make a case for very special circumstances because the site does not fall within the general extent of the Green Belt.

If Officers continue to adopt the view that the site is within the general extent of the Green Belt then we would suggest the matters set out in this letter can be read as the very special circumstances to justify the application proposal. This is on the basis that the site does not fulfil the purposes of Green Belt policy and so development will not harm the purposes of Green Belt policy.

It was for this reason that an Inspector allowed development at Germany Beck. A copy of the decision in full can be found here: <https://www.york.gov.uk/downloads/file/455/report-to-secretary-of-state-germany-beck-and-osbaldwick>

In short, the Inspector found that the site had consistently been excluded from the York Green Belt in various iterations of draft development plans. Very special circumstances were found to exist for the appeal to be allowed simply on the basis that the site did not contribute to maintaining Green Belt or preserving the setting of the City. The same set of circumstances apply in this instance whereby various iterations of draft plans have concluded the site at Willow Bank does not contribute to maintaining the York Green Belt or preserving the setting of the City.

Next Steps

I look forward to receiving further comments following consideration of the matters set out in this letter.

Yours sincerely

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