



Report to Buckinghamshire Council – Central Area Planning Committee

Application Number:	21/04555/APP
Proposal:	Removal of condition 10, 11, 14 relating to permission 12/02849/ADC (Variation of Condition 10 of planning permission 12/01733/ADC to extend the period of temporary permission for a further 3 years from 1st April 2013 to continue use of access and exit arrangements)
Site location:	Buckinghamshire Council, The Gateway, Gatehouse Road, Aylesbury, Buckinghamshire, HP19 8FF
Applicant:	Mrs Simone Williams
Case Officer:	Helen Fadipe
Ward affected:	AYLESBURY NORTH WEST
Parish-Town Council:	AYLESBURY
Valid date:	24 November 2021
Determination date:	19.01.2021
Recommendation:	Approve subject to Conditions

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 This application is made under S73 of the Town and Country Planning Act 1990 (as amended) and it seeks removal of conditions 10, 11 and 14 of the planning permission 12/02849/ADC relating to the access and exit arrangements from the Council's Gateway Offices and associated highway works.
- 1.2 It is considered that in the light of the highway improvement works currently being undertaken and nearing completion on Gatehouse Road and Gatehouse Way, as a result of the new supermarket development, the requirement for compliance with conditions 10, 11 and 14 of the planning permission 12/02849/ADC has now been superseded.
- 1.3 This application is being reported to the Central Buckinghamshire Area Planning Committee because Buckinghamshire Council is the applicant as set out in the Council's constitution.
- 1.4 Recommendation – The removal of the three conditions would not result in a form of development that would conflict with VALP and the NPPF and would not result in undue harm. It is recommended therefore that the application to remove conditions 10, 11, 14

relating to permission 12/02849/ADC be approved and the conditions which still are relevant to the development be reapplied.

2.0 Description of Proposed Development

2.1 The site comprises a four storey and three storey office building (The Gateway) and associated parking located on the corner of Gatehouse Road and Bicester Road. The land to the south and west of the building is currently used for temporary car parking, having previously been occupied by part 1, part 2, part 3 office and warehouse buildings. The car park is accessed from Gatehouse Road with a separate ingress and egress with left turn only back unto Gatehouse. The car park has 102 parking spaces.

2.2 To the west lies a car garage and other commercial development. On the opposite side of Gatehouse Road lies the new Sainsbury's supermarket with multi storey offices and mixed-use development further down the road towards the railway station.

2.3 This S73 application seeks removal of conditions 10, 11 and 14 from implemented planning permission 12/02849/ADC relating to the access and exit arrangements and related highway works. There are no changes to the previously approved plans, as the development has been commenced, many of the conditions have been satisfied.

2.4 Planning permission reference 12/02849/ADC relates to "Variation of Condition 10 of planning permission 12/01733/ADC to extend the period of temporary permission for a further 3 years from 1st April 2013 to continue use of access and exit arrangements".

2.5 Condition 10 of 12/02849/ADC states:

'That on or before 1st April 2016, the arrangement for accessing and exiting the car park shall return to those shown on drawing no B0894500/Phi/001 Rev 1. Prior to the expiry of the temporary permission hereby approved, details of the off site highway works shown in principle on drawing B0894500/Phi/001 Rev 1, which includes the widening of gatehouse Way to provide two lanes on approach to the junction with Gatehouse Road, footway and verge works and associated lining and signing, shall be submitted to and approved in writing by the Local Planning Authority and the improvement shall be laid out and constructed prior to the access coming into use'.

Reason: To ensure the impact of these alternative arrangements can be fully assessed and to avoid arrangements that would have an adverse impact on the safe and free flow of traffic on Gatehouse Road and Gatehouse Way and to comply with T1 of SEP and GP24 of AVDLP.

2.6 Condition 11 of 12/02849/ADC states:

That the arrangements hereby approved shall cease and the arrangements for accessing and exiting the car park shall return to those shown on drawing no B0894500/Phi/001 in the event that the development is brought into use to the NE side of Gatehouse Road

involving the access shown on Drg. No. E289, unless the Local Planning Authority, in consultation with the Local Highways Authority otherwise agrees in writing.

Reason: To ensure the safe and free flow of traffic on Gatehouse Road and to comply with T1 of SEP and GP24 of AVDL

2.7 Condition 14 of 12/02849/ADC states:

Notwithstanding the submitted plans, within one month of the expiry of the temporary permission hereby approved, a scheme for the closure of the altered accesses and egresses approved by this permission onto Gatehouse Road shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details within one month of the date of the details approved unless otherwise agreed in writing by the LPA.

Reason: To limit the number of access points along the site boundary for the safety and convenience of the highway user. T1 SEP.

2.8 Although often referred to as an application to vary or remove a condition, an application under this section of the Act actually has no effect on the original permission it is not an amendment to the earlier permission. It is a separate freestanding permission that the applicant is entitled to implement or ignore. This application must therefore be capable of being implemented in its own right and therefore all appropriate conditions and obligations must be imposed.

2.9 The merits of the condition(s) must be assessed against an up to date development plan. As any permission granted would in effect be a free standing planning permission all conditions to which the planning permission should adhere must be reattached. Section 73 of the Town and Country Planning Act 1990 (as amended) states:

“Determination of applications to develop land without compliance with conditions previously attached.

(1) This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.”

2.10 The application is accompanied by the following plans:

- a) Land ownership and General Arrangement Plan Ref E298/PAI
- b) Entrance and Exit Arrangements Ref E298

3.0 Relevant Planning History

- 08/02243/ADC - Erection of new council chamber, reception area and support facilities with link to existing offices. Approved, 29 October 2008
- 08/02244/ADC - Site for new four storey office building, formation of new access and associated parking. Approved. 11 December 2008
- 08/02886/ADC - Site for new three storey office building, formation of new access and associated parking. Approved 02 February 2009
- 08/B2886/NON - Non-material amendment to outline planning approval
08/02886/ADC - Rearrangement of stair cores and reduction in building footprint, minor revision to western elevation, footprint reduction by approximately 246 sqm. Approved 12 October 2010
- 09/00314/ADC - Use of land as temporary car park. Approved, 30 March 2009. Permission expired on 1st June 2011
- 10/02152/ADC - Approval of reserved matters of scale, external appearance and landscaping pursuant to outline permission 08/02886/ADC - Erection of new three storey office building, formation of new access and associated parking. Approved 04 January 2011
- 10/A2152/Non - Non-material amendment to planning approval 10/02152/ADC - Relocation of solar PV array. Approved 17 May 2012
- 11/00833/ADC - Continued use of land as temporary car park. Approved, 30 March 2011. The permission expired 31 March 2013
- 11/02396/ADC - Variation of condition 6, 14 and 16 of planning permission 08/02886/ADC. Approved 02 February 2012.
- 12/00400/ADC - Variation of Condition 8 and 9 of planning permission 11/02396/ADC to vary the access arrangements to temporary car park for a temporary period. Approved 22 March 2012. Temporary Access arrangement to end by April 2013
- 12/01733/ADC - Variation of Condition 8 12/00400/ADC to vary the access arrangements to the temporary car park for a temporary period
- 12/02849/ADC - Variation of Condition 10 of planning permission 12/01733/ADC to extend the period of temporary permission for a further 3 years from 1st April 2013 to continue use of access and exit arrangements.
- 16/01391/ADC Variation of Condition 10 of planning permission 12/02849/ADC to extend the period of temporary permission for a further 5 years from 1st April 2016 to continue use of access and exit arrangements. Withdrawn

4.0 Representations

4.1 Aylesbury Town Council - No Objections

5.0 Policy Considerations and Evaluation

The principle of varying the conditions having regard to the development plan and the Planning History.

- 5.1 There is no Neighbourhood Plan either 'made' or in preparation for Aylesbury.
- 5.2 Vale of Aylesbury District Local Plan (VALP) adopted September 2021.
- 5.3 There has been a material change in the status of the Vale of Aylesbury Local Plan (VALP) since past decisions relating to this site were issued. The VALP was adopted in September 2021. There are no significant changes to the Council's Planning policies that relate to this application when compared to past historic policies. Matters of use, built form, design etc are not relevant to this application and therefore are not covered by this report, only matters of Highways are considered relevant.

Background

VALP policies: T5 (Delivering transport in new development), T6 (Vehicle parking), Appendix B (Parking Standards).

There is a long and somewhat drawn out planning history to this site and the issue around highway improvements. The below is a high level summary and sets out the approximate timeline.

- 5.4 Following a number of consents for a new office and car park on the site a 2009 planning permission 09/00314/ADC was granted for a temporary car park to be installed on part of the site. This temporary use expired on 01.06.2011.
- 5.5 In 2011 (11/02396/ADC) permission was granted for the variation of conditions 6 (landscaping), 14 (scheme of parking etc) and 16 (stopping up of existing accesses onto Gatehouse Road and highway improvement works to Gatehouse Way) of the planning permission 08/02886/ADC which secured a new Office and Car Park.
- 5.6 As part of the 2011 permission variations were shown to the site layout to incorporate the car park on the south side of the site which had been the area subject to the 2009 permission for the temporary car park. The application also sought to retain the existing access bellmouth off Gatehouse Road into the car park off Gatehouse Road but closing it by way of a fixed barrier instead of a complete removal of the junction as was previously proposed.
- 5.7 There was a further application under 12/00400/ADC for variation of condition 8 (siting new access) and 9 (highway improvement works to Gatehouse Way) of permission

11/02396/ADC to vary the access arrangements for the temporary car park variation. This was sought to accommodate services found during construction then taking place. Permission was granted subject to conditions requiring the accesses and exiting arrangements to be stopped up before 1 April 2013 (condition 10) and returning the access arrangements to those shown on approved plans and was subject to condition 24 which required the scheme for the closure of the altered accesses and exit to be undertaken.

- 5.8 A further application was granted permission under reference 12/01733/ADC for the variation of Condition 8 of application 12/00400/ADC to vary the access arrangements to the temporary car park for a temporary period. This sought a revised access arrangement adj to the Lloyds bank to retain the existing wall and bellmouth.
- 5.9 A further application under reference 12/02849/ADC was granted to vary condition 10 12/01733/ADC to allow the temporary use for a further 3 years from 1 April 2013. This required the arrangements for the access and exit to return to those shown on the originally specified drawing by 1 April 2016.
- 5.10 In 2016 planning application (16/01391/ADC) was submitted for the variation of condition 10 of application reference 12/02849/ADC relating to the access/exit arrangements and implementing the highway improvement works to enable a further 3 years. The application was withdrawn as it was apparent that an amended version of the highway improvements was planned by Sainsbury as part of their development on the opposite side of the road, and the changes sought under application 12/02849/ADC appeared superseded.
- 5.11 The current application before this Committee seeks to remove conditions, 10, 11 and 14 of the planning permission 12/02849/ADC relating to the access and exit arrangements and highway works.
- 5.12 The National Planning Policy Framework (NPPF) paragraph 56 states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and the development being permitted, enforceable, precise and reasonable in all other aspects.
- 5.13 Planning Conditions 10, 11 and 14 required the applicant to undertake highway works at the A41 Gatehouse Road / Gatehouse Way Junction. In summary these highway works required the widening of Gatehouse Way to provide two lanes on the Gatehouse Way approach to the junction and other associated works. The new Sainsbury's / A41 Gatehouse Road / Gatehouse Way Signalised Junction has now been constructed and has recently been brought into operation. The newly installed highway layout associated with that Sainsbury's development includes a single lane and two lane highway on the Gatehouse Way approach to the junction, which was approved by the Highway Authority.
- 5.14 With Sainsbury's implementing their Highway strategy, the reasons for imposing conditions, 10, 11 and 14 of the planning permission 12/02849/ADC relating to the access and exit arrangements and associated highway works has fallen away. Although there are slight differences between the current newly installed layout and that envisaged under planning application 12/02849/ADC the overall package of works overcomes previous

highway concerns raised in the locality with regard to access and exit arrangements from the council car park.

- 5.15 Because of the physical changes to the Highway layout that have recently taken place the Highways Officer has confirmed that there is no longer a requirement for works to be carried out in accordance with the plan reference B0894500/Phi/001 Rev 1 attached to permission 12/02849/ADC; nor is it necessary to provide further details of any future works.
- 5.16 With respect to condition 14, the context for closure of these access and exiting arrangements has changed and the Highway Authority has no objection to the retention of the existing access arrangements onto the A41 Gatehouse Road for access to the existing car park. The access arrangements have already been incorporated into the new Sainsbury's Junction layout (See image below) and the continued use of the accesses is therefore considered acceptable and presents no highway safety issues. The Highway Authority would not however support an intensification of these accesses, and any future development should be served off Gatehouse Way via the new Sainsbury's Junction. An informative to this effect is recommended. Such intensification would likely result from future development and therefore control of this matter would be a matter for a future planning application if further development was ever planned.

Extract from S278 Sainsbury application:



- 5.17 The Highway Authority has no objection to removal of planning conditions 10, 11 and 14 of the planning permission 12/02849/ADC relating to the access and exit arrangements and highway works.
- 5.18 Taking into account the above, it is considered that the removal of conditions 10, 11 and 14 is acceptable. No consultee objections have been received and no 3rd party comments have been submitted as part of this application. It is considered that Conditions, 10, 11 and 14

no longer serves any useful purpose and can be removed without any significant risk of harm to highway users. The removal of the conditions would not result in a form of development that would conflict with VALP and the NPPF.

5.19 Other Material Consideration

VALP policies BE2 (Protection of the amenity of Residents)

5.20 The NPPF has been revised since the original planning permission was granted, and the Vale of Aylesbury Local Plan adopted. The only relevant change to this application is that the policies which seek to protect the character and amenity of areas supersedes the AVDLP policies. Having regard to VALP policies BE3 of the VALP, the proposal to remove conditions 10, 11 and 14 would have no greater harm in terms of residential amenity, than that which has already been considered previously.

6.0 Weighing and balancing of issues / Overall Assessment

- 6.1 This section brings together the assessment that has so far been set out in order to weigh and balance relevant planning considerations in order to reach a conclusion on the application.
- 6.2 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:
- a. Provision of the development plan insofar as they are material,
 - b. Any local finance considerations, so far as they are material to the application (such as CIL if applicable), and,
 - c. Any other material considerations
- 6.3 As set out above it is considered that the proposed development would accord with development plan policies BE3, T5, T6, Appendix B (Parking Standards).
- 6.4 Local Planning Authorities, when making decisions of a strategic nature, must have due regard, through the Equalities Act, to reducing the inequalities which may result from socio-economic disadvantage. In this instance, it is not considered that this proposal would disadvantage any sector of society to a harmful extent].
- 6.5 Human Rights – None

7.0 Working with the applicant / agent

- 7.1 In accordance with paragraph 38 of the NPPF (2019) the Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments.
- 7.2 The Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.
- 7.3 In this instance the application was acceptable as submitted and no further assistance was required.

8.0 Recommendation

- 8.1 Because the original host application has been built out a review of conditions has taken place and the ones which have been complied with and have no ongoing monitoring requirements are not to imposed on this consent. The officer recommendation is that the application be Approved with the following conditions:

1. No additional ventilation, extraction, refrigeration, chilling, generators or other equipment, other than as shown on plans and information submitted 1st November 2011 and approved in writing 1st December 2011 shall be installed on site without the prior approval of the LPA. The installation of such items shall be carried out in accordance with the approved details.

Reason: To preserve the amenities of the occupants of the adjacent dwelling and to comply with VALP Policy BE3.

2. Notwithstanding the provisions of Part 2 of the Second Schedule to the Town and Country Planning General Permitted Development Order 1995 (or any Order revoking or re-enacting that Order) no gates other than those shown on the approved plan shall be erected along the site frontage within six metres of the edge of the carriageway.

Reason: To enable vehicles to draw off clear of the highway for the safety and convenience of the highway users and to comply with Transport Polices of VALP.

3. The scheme for parking, manoeuvring and the loading and unloading of vehicles shown on the submitted plans approved under application 12/02849/ADC shall be layout out and thereafter be used for any other purpose.

Reason: To enable vehicles to draw off, park, load/unload and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.

4. The development shall be carried out in accordance the Aylesbury Vale District Council Workplace Travel Plan 2011-2013 and Appendix 2 of that document approved by the LPA 7th December 2011 and shall remain in effect in accordance with approved details.

Reason: In order to influence modal choice and to reduce single occupancy private car journeys and to comply with policy T1 of SEP.

Informative(s):

1. The applicant is advised that the intensification of the current access arrangement would not be supported by the Highways Authority and any future development should be served off Gatehouse Way via the new Sainsbury's Junction.

APPENDIX A: Consultation Responses and Representations

Councillor Comments

None

Parish/Town Council Comments

Aylesbury Town Council

Aylesbury Town Council have no objection to this application

Consultation Responses (Summary)

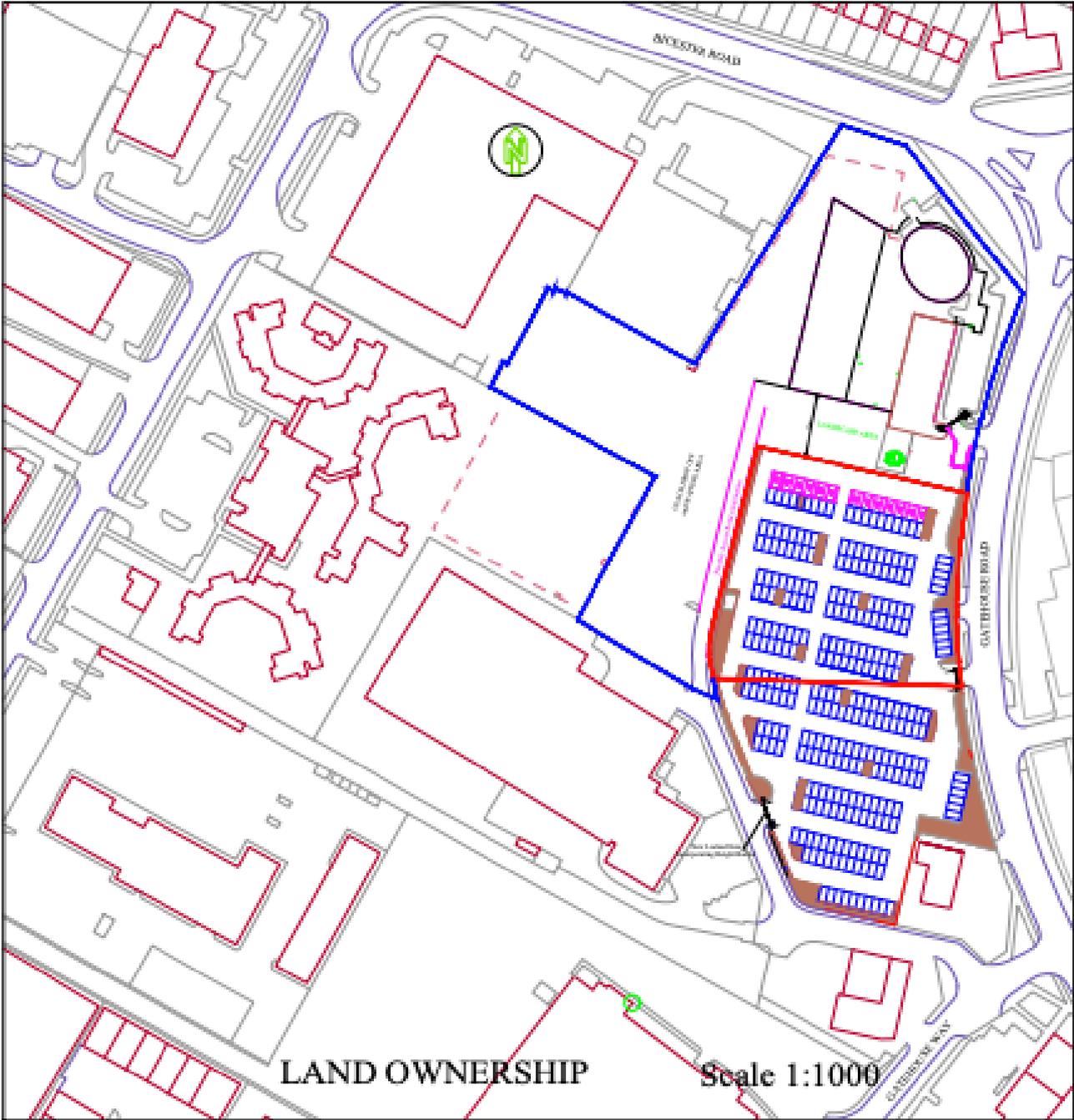
Highways:

I note that previous planning consents for The Gateway required the applicant to undertake highway works at the A41 Gatehouse Road / Gatehouse Way Junction. These highway works required the widening of Gatehouse Way to provide two lanes on the Gatehouse Way approach to the junction. The new Sainsbury's / A41 Gatehouse Road / Gatehouse Way Signalised Junction has now been constructed. In addition, the layout includes a single lane on the Gatehouse Way approach to the junction, which was approved by the Highway Authority via the s278 highways agreement. As the highway works have been carried out and the layout has changed, there is no longer a requirement for works to be carried out in accordance with the plan reference B0894500/Phi/001 Rev 1 by the applicant, or the requirement for the further details specified to be submitted. I would therefore have no objection to the removal of planning conditions 10 and 11.

With respect to condition 14, the Highway Authority would have no objection to the retention of the existing access arrangements onto the A41 Gatehouse Road for access to the existing car park. These access arrangements have been incorporated into the new Sainsbury's Junction layout and the continued use of the accesses is considered acceptable. The Highway Authority would not however support an intensification of these accesses, and any future development should be served off Gatehouse Way via the new Sainsbury's Junction.

The Highway Authority has no objection to removal of planning conditions 10, 11 and 14 of the planning permission 12/02849/ADC relating to the access and exit arrangements and highway works.

APPENDIX B: Site Location Plan



Do not scale – this map is indicative only

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