

Committee: Cabinet

Date: 18 September 2017

Wards: All

Subject: Neighbourhood Community Infrastructure Levy and Carbon Offset funds

Lead officer: Chris Lee, Director for Environment and Regeneration

Lead member: Councillor Martin Whelton, Cabinet Member for Regeneration, Environment and Housing

Contact officers: Tim Catley, S106, External Funding Officer (Neighbourhood CIL), Damian Hemmings, Climate Change Officer (Carbon offset fund)

Reason for urgency: The chair has approved the submission of this report as a matter of urgency as it would have implications for the council's ability to administer the Neighbourhood CIL fund, collect and allocate carbon offsets in a timely manner and in accordance with the timescales set out in the report.

Recommendations:

- A. That Cabinet approves the governance and allocation arrangements for the Neighbourhood Community Infrastructure Levy (CIL) Fund, as set out in Appendices A & B.
- B. That Cabinet note the changes to the carbon offset collection process and approve the governance and allocation arrangements for the Carbon Offset Fund, as set out in Appendix C.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report is being brought to Cabinet for oversight and approval of the processes for allocating funds from two funding sources derived from new development namely:
 - (i) The neighbourhood proportion of Merton Neighbourhood Community Infrastructure Levy (CIL) income (the 'Neighbourhood Fund') and;
 - (ii) Payment collected to offset the carbon impact of new development (the 'Carbon Offset Fund').
- 1.2. The two reports are taken together as they both address funding derived from planning / new development arising in the borough, albeit from different legislation and for differing purposes.

2 DETAILS

- 2.1. Full details of the Neighbourhood Fund are set out in Appendices A & B of this report. Details of the Carbon Offset Fund are set out in Appendices C–E.

3 ALTERNATIVE OPTIONS

- 3.1. As detailed in the reports set out in Appendices A & C.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. As detailed in the reports set out in Appendices A & C.

5 TIMETABLE

5.1. As detailed in the reports set out in Appendices A & C.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. As detailed in the reports set out in Appendices A & C.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. As detailed in the reports set out in Appendices A & C.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None for the purposes of this report.

9 CRIME AND DISORDER IMPLICATIONS

9.1. None for the purposes of this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None for the purposes of this report.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- (i) Appendix A: Community Infrastructure Levy – Neighbourhood Fund
- (ii) Appendix B: Governance and allocation arrangements for assessing bids for CIL Neighbourhood Funds
- (iii) Appendix C: Merton Carbon Offset Fund
- (iv) Appendix D: Local carbon offset funds allocation
- (v) Appendix E: Governance and allocation arrangements for carbon offset funds

12 BACKGROUND PAPERS

12.1. Merton Cabinet meeting 19 September - agenda item 6

12.2. The findings of the neighbourhood priorities consultation carried out from 28 November 2016 to 28 January 2017

Appendix A: Community Infrastructure Levy – Neighbourhood Fund

Contact officer: Tim Catley, S.106/External Funding Officer

Recommendations:

- A. Approve the governance and allocation arrangements for the Neighbourhood Fund set out at Appendix B
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report is being brought to Cabinet to set out how the council will administer the neighbourhood proportion of Merton CIL Community Infrastructure Levy income (Neighbourhood Fund).
- 1.2. It is recommended that Cabinet approves the governance and allocation arrangements for the Neighbourhood Fund set out at Appendix B.

2 DETAILS

- 2.1. Since 2014 the Council has been collecting Community Infrastructure Levy funding and has received over £777,000 to be spent on neighbourhood projects (the Neighbourhood Fund). None of this has been allocated or spent yet.
- 2.2. Under the CIL Regulations, the Neighbourhood Fund must be spent on local projects to support the demands development places on the area.
- 2.3. Government guidance states that local authorities should engage local communities and agree with them how to best spend the Neighbourhood Fund, and that governance should be proportionate to the level of receipts.
- 2.4. On 19 September 2016 Cabinet authorised governance parameters and public consultation to identify the communities' priorities for spending the Neighbourhood Fund.
- 2.5. The council undertook the consultation between 28 November 2016 and 28 January 2017. Annex 1 of this appendix sets out the findings of the consultation.
- 2.6. Following the consultation, the council needs to agree detailed arrangements through which it can assess and approve proposals for the allocation of funding. Appendix B sets out our proposals in this regard, which Cabinet is asked to approve, and sets out our proposed timetable for allocations over the next two years.

3 ALTERNATIVE OPTIONS

- 3.1. Cabinet could seek secure alternative arrangements; however it is considered that the proposed arrangements would best meet the parameters that Cabinet approved in September 2016 so that delivery of the priorities identified during the public consultation.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. The council undertook the consultation between 28 November 2016 and 28 January 2017. The findings of the consultation are set out in Annex 1 of this appendix.

5. TIMETABLE

- 5.1 Appendix B sets out the proposed timetable to implement the arrangements over the next two years.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The administration proposed governance and allocation procedures will require resourcing by CIL officers in Future Merton funded from the proportion of CIL revenues that can be used for administration of CIL. The procedures would support projects that would have been prioritised without CIL enabling saving of council borrowings for capital funding) so there is a potential for a revenue saving for the Council.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. Under the CIL Regulations the Neighbourhood Fun, must be spent on local projects to support the demands development places on the borough.
- 7.2. Government guidance states that local authorities should engage local communities and agree with them how to best spend the Neighbourhood Fund and that the cost of administering the fund should be reasonable and proportionate to the amount of funding received.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. The council is seeking an equitable distribution of Neighbourhood CIL funding across Merton to address the demands that development places on the borough.
- 8.2. One of the key criteria against which projects will be considered is the council's Community Plan 2013 in order to help improve the lives of everyone living, working or studying in the borough. Any projects for which the funding is subsequently sought under the finally agreed arrangements will need to consider human rights, equalities and community cohesion, but also how it will bridge the gap.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. One of the key criteria against which projects will be considered is the council's Community Plan 2013, which includes improving community cohesion and safety. Any projects for which the funding is subsequently sought under the finally agreed arrangements would need to address these requirements, where applicable.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. Any projects for which the funding is subsequently sought under the finally agreed arrangements would need to address these requirements, where applicable.

ANNEX 1

Neighbourhood CIL Consultation Report – November 2016-January 2017

[to be added when creating the PDF for publication. Until then to be provided as a separate MS Word document]

Appendix B: Governance and allocation arrangements for assessing bids for CIL Neighbourhood funds

Step 1 – community “proposals”

Individuals, groups or organisations, external to the Council (“proposers”) with proposals that they would like to be considered for the Neighbourhood Fund are asked to work with their ward councillors who can then work with the Council to identify potential bids for the funding– see Step 3 – “Assessing bids” below. A “proposal template” will be provided for this purpose.

Step 2 – preparing and submitting “bids”

The Council will work to identify projects to allocate the funding to, including proposals identified by councillors and members of the community under Step 1 above. The Council will then be responsible for making bids for Neighbourhood Fund funding.

Step 3 – Assessing Bids

All proposals will be evaluated by officers, with issues fed back to the proposer(s) and bidders where appropriate. Proposers will be informed of the results of their bids with reasons for the decision recorded and notified to proposers and bidders using a “decision template”.

Assessment criteria

Bids will be assessed against the following criteria:

- a. Spending Neighbourhood CIL would need to accord with the CIL Regulations and government guidance on CIL.
- b. The proposal should demonstrate how it helps to deliver Merton’s Community Plan, including objectives such as bridging the gap, a healthy and fulfilling life, improving community safety and contributing to the community.
- c. The proposal must be an appropriate use of use of the funds and should not have any unacceptable financial implications (either capital or ongoing revenue funding) on the council or any other body.
- d. Estimated cost of the proposal should aim to be over £20,000.
- e. The proposal should be deliverable and capable of being started within the year ahead.
- f. Proposals should have endorsement by at least one ward member.
- g. Proposals should clearly demonstrate how it meets neighbourhood priorities. We will be looking for projects that clearly fall within one or more of the priorities favoured by the neighbourhood where the proposal would be located (or neighbourhood that would benefit most from the proposal) as demonstrated by the results of the Neighbourhood CIL public consultation (Nov 2016-Jan 2017).

Step 4 – Decision Making – Bid Selection

Officers will set out their preferred bids to be allocated Neighbourhood Funding in a report for Cabinet consideration setting out the reasons why the recommended allocations are supported in comparison to other bids. The Sustainable Communities panel will be able to scrutinise the report and make any recommendations to cabinet.

Step 5 – Project Delivery

Projects would be delivered in the same way as any other scheme in the Council's finance programme. Expenditure of the Neighbourhood Fund will be monitored and reports will be published annually in Merton's Annual Monitoring Report in accordance with the CIL Regulations.

Step 6 – Re-consultation on priorities

After at least three years the Council will seek the views of Merton's neighbourhood communities again. If the results of this further consultation shows that communities have changed their priorities then this change in priorities will be applied when the council assesses bids under criteria g. above.

Timescales

The fund will operate on a (financial) yearly basis as follows:

Bids for projects requiring delivery during a particular year will be assessed together in the preceding year. Timescales for the first four years as follows:

Year 1 –to 31st March 2017

<i>Dates</i>	<i>Tasks</i>
<i>November – January</i>	Consultation
<i>January – March</i>	Assessing results of consultation.

Year 2 – 1st April 2017 to 31st March 2017

<i>Dates</i>	<i>Tasks</i>
<i>September/October</i>	Publish priorities for each neighbourhood. Publish proposals form and governance framework. Proposals submitted by members of communities to ward councillors (step 1)
<i>End of October</i>	Closing date for Bids to be submitted (step 2)
<i>September - November</i>	Bids assessed (step 3)
<i>October/November</i>	Bid selection - (step 4) Officers prepare report of recommendations for bid selection. Sustainable Communities Scrutiny Panel scrutinise report and make recommendations to officers recommendations Cabinet/Full Council bid selection
<i>November to April</i>	Preparations for project implementation

Year 3 – 1st April 2018 to 31st March 2019

<i>Dates</i>	<i>Tasks</i>
<i>April to March</i>	Project delivery/expenditure (step 5)
	Steps 1 to 4 repeated

Year 4 – 1st April 2019 to 31st March 2020

<i>Dates</i>	<i>Tasks</i>
<i>April to March</i>	Reconsult Merton's neighbourhood communities on priority themes (step 6) Project delivery/expenditure (step 5) following conclusion of steps 1 to 4 in year 3. Steps 1 to 4 repeated

Appendix C: Merton Carbon Offset Fund

Contact officer: Damian Hemmings, Climate Change Officer

Recommendations:

- A. That Merton directs all secured carbon offset funding to a Merton carbon offset fund.
 - B. That carbon offset funding is collected at commencement and allocated to local projects upon application to a Merton carbon offset fund.
 - C. That any associated revenue generated from carbon offset projects is considered for use in Merton carbon offset fund for reinvestment in more carbon saving activities.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. Under regional planning policy (The London Plan), all new developments are required to achieve a minimum standard of energy use and carbon emissions performance. Any development that fails to achieve the minimum standards may offset their carbon emissions shortfall via cash in lieu contributions. The 'carbon offset' payment is then used to deliver local carbon saving projects.
- 1.2. In October 2016, the London Plan minimum energy performance standard for major (≥ 10 units) domestic developments was increased. As a result, more new developments in Merton have needed to make higher value carbon offset payments in order to achieve policy compliance.
- 1.3. Over the last eight months Merton has agreed (or is due to agree) carbon offset contributions totalling £280,000. This is a significant increase on the total of £155,000 collected over the eight years from 2008-2016. Over the next 12-months carbon offset payments are anticipated to exceed £500,000.
- 1.4. Carbon offset funding has the potential to provide a significant and ongoing source of funding to deliver local carbon saving activities, including both capital (e.g. solar PV on households/community assets) and revenue (e.g. behavioural change) based projects.
- 1.5. Future Merton is seeking approval to adjust the current approach for collecting and allocating carbon offset funds in order to:
 - (i) Allow a more flexible and effective approach to funding local carbon saving projects;
 - (ii) Ensure greater consistency with the approach taken in other London Planning Authorities;
 - (iii) Consider that revenue generated as a result of a carbon saving project could be reinvested to deliver further carbon savings across the borough.

2 DETAILS

- 2.1. Any development proposal in London that fails to meet the carbon emissions performance requirements under local or London Plan policies is liable to offset any emissions shortfall via a 'carbon offset' payment. This contribution is required to make the development acceptable in planning term and is secured by Section 106 (S.106) agreement.

- 2.2. As of 2016, 69% of London Planning Authorities (LPAs) (24/35) were actively applying carbon offset payments (or had imminent plans to do so).
- 2.3. Historically, the levels of carbon offset payments in Merton (and across wider London) were relatively modest as most developments could achieve the necessary performance standards on site.
- 2.4. Since 1st October 2016, a step-change in performance requirements under the London Plan has meant that major (≥ 10 units) domestic developments are required to deliver a 100% improvement on current (2013) Building Regulations performance; a standard commonly known as 'Zero Carbon'.
- 2.5. To meet Zero Carbon, all major domestic developments need to make a financial contribution to offset the carbon emissions not achieved onsite. This is usually 60-65% of the development's emissions. In Merton the offset payment broadly equates to £1,700 per residential unit; although the final cost will depend upon the level of emissions reductions achieved onsite.
- 2.6. This policy change has markedly increased the carbon offset income in all London Planning Authorities. Merton's offset income has increased from £155,000 over the eight years from 2008-2016, to over £280,000 in the last eight months. The level of future income may exceed £500,000 per annum, based on projections of major domestic planning applications.
- 2.7. While the opportunity and level of funding has increased, the delivery of carbon saving projects in Merton is currently limited by a number of factors:
 - Carbon offset funding is typically collected upon completion/occupation of the scheme, so the timescales for receiving funding are uncertain. This makes the forward planning and strategic delivery of carbon offset projects extremely challenging.
 - The carbon saving project to be delivered is currently specified in the S.106 agreement, so as to ensure compliance with S.106 pooling restrictions (ensuring that no more than five S.106 contributions fund any given project). This approach provides little flexibility and limits the opportunity to respond to changing technologies or circumstances.
 - As individual carbon offset agreements are usually relatively small in value, the scope for delivering larger projects that deliver higher carbon savings is fairly limited.
- 2.8. To better utilise carbon offset funding and deliver wider community benefits, Future Merton is seeking to vary the process for managing carbon offset funding to allow it to be utilised in a more strategic and flexible manner.

3 ALTERNATIVE OPTIONS

- 3.1. The approaches to the collection and management of carbon offset funds vary between different planning authorities. Merton currently secures carbon offset payments upon completion of the development with offset funds directed to a specific project identified in the S.106 agreement document.
- 3.2. Authorities such as Islington, Tower Hamlets, Lewisham and Milton Keynes, have maximised the opportunities available through carbon offset funding by consolidating contributions in a ring-fenced fund. This is the approach recommended in the Mayor's Sustainable Design and Construction SPD.

- 3.3. Councils using a revolving offset fund allocate carbon offset funds on a project-by-project basis, with oversight and approval provided by an internal 'Carbon Offset Board'.
- 3.4. Merton is seeking to implement an approach more consistent with the above planning authorities, and is therefore proposing the following changes:
- (i) To collect carbon offset funds from developments at the point of commencement as opposed to occupation. This will enable carbon saving projects to be delivered by the time the development is occupied; thereby avoiding any delay in offsetting a development's carbon impact.
 - (ii) To direct all offset funds to a Merton COF. Funding will then be allocated to projects upon application to the fund, as opposed to specifying individual projects within the S.106 agreement¹. This will allow offset funds to be used more flexibly and enable up to five S.106 contributions to be directed towards a specific carbon offset project.
 - (iii) For carbon offset funding approval to be undertaken in line with existing S.106 approval processes, with oversight provided by the council's internal Climate Change Steering Group; a cross-departmental officer group chaired by the Director of Environment and Regeneration.
- 3.5. This new approach would provide council officers with greater flexibility in project scale, scope and delivery, as well as providing local stakeholders with the opportunity to apply to the COF to fund local carbon offset projects.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. Provision for the collection of carbon offset payments is included in Merton's Sites and Policies DPD policy DM EP3: Allowable Solutions. This was adopted by council in 2014 following a consultation and public hearing.
- 4.2. More recently, views have been sought from other London boroughs who are actively collecting carbon offset funding, including Islington and Lewisham.
- 4.3. Pan-London discussions have also occurred at officer level at the London Environmental Coordinators Forum (LECF). A questionnaire on carbon offset funding was developed by the LECF and circulated to all boroughs in April 2017. There is a desire among most boroughs to try and ensure consistency of approach in applying the carbon offset funding policy.
- 4.4. Internal officer consultation has also been undertaken via the council's Climate Change Steering Group.

5 TIMETABLE

- 5.1. Historically, S.106 payments have been secured for a limited number of developments to allow them to comply with local planning policy. Merton has been actively securing carbon offset payments for all major domestic development applications since 1st October 2016.
- 5.2. Subject to Cabinet approval, we are proposing to immediately amend the collection, management and allocation process for carbon offset funding.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

¹ This would make the COF the default route for funds, as opposed to the 'last resort' option currently used.

- 6.1. From 2008–2015 Merton agreed in excess of £155,000 in S.106 agreements for carbon saving activities. Since 1st October 2016 Merton has secured (or is in the process of securing via planning agreement) carbon offset payments in excess of £280,000.
- 6.2. In future, Merton could expect to secure over £500,000 per annum in carbon offset payments from major domestic developments. This will increase again if the Zero Carbon standard is introduced for non-domestic buildings in 2019.
- 6.3. Over £130,000 of carbon offset funding has been allocated to local projects to date (Appendix D), including the installation of solar PV in Morden Hall Park.
- 6.4. In future, the intention will be to direct carbon offset funds towards carbon saving measures in local public and council-owned community assets.. Subsequently, funds could be used to help address fuel poverty by delivering energy improvements in local housing stock.
- 6.5. Additionally, there is scope for carbon offset funds to be invested in projects that generate a financial return or income (e.g. solar PV installations). The associated revenue could then be used to support more local carbon saving activity to provide added value.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. Merton is required to ensure that development proposals adhere to London Plan and Local Plan policies, which require carbon offset payments to be secured in a local offset fund and used to secure carbon savings elsewhere.
- 7.2. Provision for the collection of cash in lieu contributions for carbon offset funding is included in:
 - (i) Policy 5.2 and 5.4 of the London Plan²
 - (ii) Section 2.5 of the Mayor’s Sustainable Design and Construction SPD³
 - (iii) Policy DM EP3 of Merton’s Sites and Policies Plan
- 7.3. Merton’s approach to calculating the cost of carbon offset payments is consistent with the methodology outlined in the above guidance.
- 7.4. There are restrictions that apply to the collection and use of S.106 funding that dictate how a local planning authority collects and uses the funds:
 - (i) S.106 pooling restrictions prevent councils from collecting more than five separate planning obligations for any one project or type of infrastructure.
 - (ii) CIL Charging Authorities are not permitted to secure S.106 Obligations for projects included on their CIL Regulation 123 List. Hence no energy or climate related infrastructure is included on Merton’s 123 List.
- 7.5. Under the recommended governance and allocation process detailed in Appendix E, local carbon offset funding will continue to be secured using existing processes for S.106. Funds will be allocated on a project-by-project basis, with a maximum of five contributions directed to one project, in accordance with the S106 regulations.
- 7.6. We propose that carbon offset funding approval and oversight is provided by the council’s internal Climate Change Steering Group in the first instance, as

² <https://www.london.gov.uk/what-we-do/planning/london-plan/current-london-plan/london-plan-chapter-five-londons-response/policy>

³ https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/Sustainable%20Design%20%26%20Construction%20SPG.pdf

this is best placed to review the associated carbon benefits of any such proposals.

- 7.7. Should a project of significant capital investment be proposed, the scheme would be escalated to the Capital Programme Board or Cabinet for approval.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None for the purposes of this report.

9 CRIME AND DISORDER IMPLICATIONS

9.1. None for the purposes of this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None for the purposes of this report.

Appendix D: Local carbon offset funds allocation

Merton carbon offset funds		
Total agreed contributions*	Amount secured (received) to date	Funds allocated to projects
£437,587	£135,317	£86,792

**Subject to commencement/completion of the planning scheme*

Project already supported	Date	Funds allocated
Solar PVs on the pavilion at Raynes Park High School Sports Ground	July 2011	£17,000
Contribute towards Solar Electric and Thermal Panels (PVT panels) on the Stable Yard at Morden Hall Park	November 2011 – June 2012	£16,000 + £2,279
Solar PV panels on Hazlemere School as part of the Wandle Valley Low Carbon Zone	August 2011	£23,435
Solar PVs at High Path Day Centre <i>(installed February 2012; the solar panels can be moved to another site)</i>	February 2012	£17,376
Solar PVs at Deen City Farm	May 2016	£10,702
TOTAL RECEIVED		£86,792

Appendix E: Governance and allocation arrangements for the Carbon Offset Fund

Carbon offset project may be proposed by individuals, groups or organisations external to the council, as well as by council officers.

The below steps outline the proposed process for parties bidding for and securing carbon offset funding.

Step 1 – Compliant carbon offset proposals

Individuals, groups or organisations submit proposals they would like to be considered for carbon offset funding support via a 'proposal template'.

All proposals will initially be reviewed by officers in Future Merton, with any issues or clarifications fed back to the proposer(s), where appropriate.

Step 2 – Assessment

Proposals seeking funding support will be assessed by officers against the agreed 'assessment criteria', which will be available on the council's website.

- a. Proposals must comprise a sensible use of funds and deliver local carbon saving activity (although savings are not required on a 1:1 basis).*
- b. Proposals should help support the transition to a low carbon economy.*
- c. Proposals should demonstrate additionality (i.e. the project would not have happened under a 'business as usual' scenario).*
- d. Proposed schemes must not have any unacceptable revenue or capital implications on the council or any other body.*
- e. Proposals should deliver wider social benefits, where possible.*
- f. The proposal should be deliverable and capable of being started within twelve months of approval.*
- g. Proposal should provide access to monitoring data and information, as required by the council, for audit purposes.*

Compliant proposals will be highlighted in a quarterly report to the council's Climate Change Steering Group, chaired by the Director of Environment and Regeneration.

Step 3 – Authorisation

The Climate Change Steering Group will consider the proposals in accordance with the assessment criteria and authorise approved projects.

Council officers will be responsible for processing the approved proposals and submitting the documentation through the Section 106 process to secure funds.

Step 4 – Notification

Proposers will be informed of successful bids via a "decision notice" template.

Step 5 – Project Delivery

Projects will be delivered in the same way as 'mainstream schemes' in the Council's capital programme. Expenditure will be monitored and reports published annually in Merton's Annual Monitoring Report.

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