

P/17/0257/OA

SARISBURY

MR CHRIS COLLINS

AGENT: W Y G

ERECTION OF ONE CHALET BUNGALOW TOGETHER WITH ASSOCIATED CAR PARKING AND LANDSCAPING

274 BOTLEY ROAD BURRIDGE SOUTHAMPTON HAMPSHIRE

Report By

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Introduction

This application follows the refusal of four previous proposals for a dwelling on this site:

1. Planning application reference P/11/0549/OA - refused in August 2011
2. Planning application reference P/12/0373/OA - refused in July 2012 (an appeal was subsequently lodged and dismissed)
3. Planning application reference P/14/0935/OA - refused in November 2014
4. Planning application reference P/15/0946/OA - refused in November 2015 (again, an appeal was subsequently lodged and dismissed).

A number of key planning issues were resolved in the first appeal concerning the 2012 application. However, in reaching his decision on that appeal, the Planning Inspector concluded that the lack of satisfactory visibility looking northwards at the junction with Botley Road meant that he had no alternative but to refuse permission. He considered it was "vital that there is adequate visibility to ensure safe movements when entering and exiting the road" and that the visibility splay required northwards from the junction to be 2.0 x 60 metres.

The planning applications that followed in 2014 and 2015 attempted to address this one remaining concern but failed to ensure that safe access could be provided. The appeal relating to the 2015 application again looked primarily at the issue of visibility northwards from the access lane onto Botley Road and found it unacceptable to grant planning permission. The Planning Inspectorate later however wrote to the appellant to acknowledge that the Inspector had misunderstood the evidence before her in relation to the visibility splay crossing over third party land, nonetheless the decision to dismiss the appeal stood.

This current application is very similar in nature to the previous proposals but with clarification and minor revisions made in respect of the means of access/egress from Botley Road.

Site Description

The application site is located beyond the defined urban area and is defined countryside for the purposes of planning determinations. It is triangular in shape, bound on two sides by the garden areas of dwellings fronting Botley Road and by a metalled, but overgrown public footpath (No. 21) along its southern boundary. The site itself is overgrown and a tree preservation order (TPO) protected oak tree grows at its eastern end.

Included within the red-edged area of the submitted plans is the stretch of footpath (No. 21) from the proposed bungalow to Botley Road. A row of TPO protected poplar trees runs adjacent to the southern edge of the footpath close to the development site.

Description of Proposal

This application seeks outline planning permission for the erection of a detached chalet bungalow with associated parking and landscaping. Matters of access, landscaping and layout are submitted for approval with all other matters reserved. The submitted plan shows an 'L' shaped detached dwelling, with vehicular access taken from Botley Road along the line of Footpath 21.

Policies

The following policies apply to this application:

Approved Fareham Borough Core Strategy

CS2 - Housing Provision

CS5 - Transport Strategy and Infrastructure

CS6 - The Development Strategy

CS14 - Development Outside Settlements

CS15 - Sustainable Development and Climate Change

CS17 - High Quality Design

Approved SPG/SPD

RCCPS - Residential Car and Cycle Parking Standards Supplementary Planning Document,

Design Guidance Supplementary Planning Document (Dec 2015)

EXD - Fareham Borough Design Guidance Supplementary Planning Document

Development Sites and Policies

DSP3 - Impact on living conditions

DSP6 - New residential development outside of the defined urban settlement boundaries

DSP13 - Nature Conservation

DSP15 - Recreational Disturbance on the Solent Special Protection Areas

Relevant Planning History

The following planning history is relevant:

<u>P/15/0946/OA</u>	ONE CHALET BUNGALOW TOGETHER WITH ASSOCIATED CAR PARKING AND LANDSCAPING (OUTLINE APPLICATION SEEKING APPROVAL FOR MATTERS OF ACCESS, LANDSCAPING AND LAYOUT)	
	REFUSE	27/11/2015
	APPEAL: DISMISSED	09/12/2016
<u>P/14/0935/OA</u>	ERECTION OF ONE CHALET BUNGALOW TOGETHER WITH ASSOCIATED CAR PARKING AND LANDSCAPING	
	REFUSE	24/11/2014
<u>P/12/0373/OA</u>	PROPOSED ONE CHALET BUNGALOW WITH ASSOCIATED CAR PARKING AND LANDSCAPING (OUTLINE APPLICATION FOR ACCESS, LANDSCAPING AND LAYOUT, RESUBMISSION OF P/11/0549/OA)	

REFUSE
APPEAL: DISMISSED

27/07/2012
06/06/2013

P/11/0549/OA

ERECTION OF ONE DETACHED DWELLING (OUTLINE APPLICATION)

REFUSE

23/08/2011

Representations

Objections from five parties have been received in relation to this application on the following grounds:

- Backland development out of keeping with countryside and contrary to policy
- Overdevelopment
- Highway safety at junction with Botley Road
- Harmful to safety of users of footpath / right of way
- Disruption and highway safety implications from construction on the site
- Harm to trees on site and nearby
- Overlooking

Consultations

INTERNAL

Highways -

This proposal is to erect a chalet bungalow along a private track that also forms a public footpath. The track has a priority junction with the A3051 Botley Road.

The track itself has vegetation trimmed back so that adequate visibility is available between drivers of vehicles and pedestrians. There should be a requirement that this vegetation is kept trimmed. The track currently provides access to a single dwelling and a small storage yard.

The proposals for the chalet bungalow are acceptable as adequate parking and turning can be achieved. To maintain pedestrian safety adjacent to the bungalow, it would be necessary for the section of hedge fronting the parking/turning area to be maintained at a height of not more than 0.6m.

The proposals include the widening of the track to 5m within 10m of its junction with Botley Road. This will encroach upon a small bank and grass verge on the south side.

Consistent with advice in the Department for Transport's document 'Manual for Streets' and the Chartered Institution of Highways and Transportation's document 'Manual for Streets 2', visibility splays of 2m by 59m can be provided to the north and south of the centreline of the proposed junction according to an independent topographical survey. These splays would be derived as follows -

- A 2m 'x' distance has been used on account of the very low level of traffic that would be emerging from the track.
- It has been accepted that all traffic approaching from the north will be visible to emerging drivers on the understanding that no vehicles approaching at ambient speeds would be

within the 1m wide strip adjacent to the nearside kerb.

- Given the deviating alignment of Botley Road, it is accepted that northbound drivers do not overtake on the bend south of the junction and thus visibility here can be taken to the centreline of the road at 59m from the junction.

It has been submitted that the applicant has used, and carried out maintenance, of the track over a considerable period of time and has taken steps to identify the owner/s without success. This would suggest there is a reasonable prospect that the junction improvements can be secured by a 'Grampian' condition.

It is accepted that it will ultimately be the responsibility of the Highway Authority to enforce against any vegetation that overhangs the highway (and in this case, the footway) so as to restrict the safe use of the highway. Whilst Hampshire County Council would seek to resolve such matters privately between land-owners, a lack of such resolution would ultimately need to be an enforcement matter under the Highways Act.

Accordingly, subject to appropriate conditions relating to securing parking and turning clear of Botley Road, the above junction improvements and maintenance of the track, no highway objection is raised to the application.

Trees -

There are no arboricultural reasons for refusal subject to a more comprehensive tree protection method statement / tree protection plan.

Ecology -

The supporting ecological information confirms that the site supports low/negligible potential for reptiles but recommends a precautionary approach to grassland removal. [Recommended conditions relating to works in accordance with ecology report and biodiversity enhancement measures].

EXTERNAL

Hampshire County Council - Countryside Access Development Officer -

As identified by the proposal, Fareham Footpath 21 runs along Verne Close, through which the proposal seeks vehicular access.

As mentioned in our previous responses to applications P/11/0549/OA and P/12/0373/OA, there are no recorded public vehicular rights through Verne Close and it is an offence under section 34 of the Road Traffic Act 1988 to drive over a public footpath without lawful authority. We note that the application form states that Verne Close is unregistered land and that the applicant claims a right of way. The applicant needs to satisfy themselves that they have adequate authority or permission to use the route for vehicular access for an additional dwelling and to carry out any proposed works to the route.

We have objected to the previous applications on the grounds that due to the nature and width of the footpath, it would cause conflict between vehicles accessing the site and users of the right of way. We note that the proposal now seeks to widen the access road to 3 metres and resurface it. Such works would require the permission of Hampshire County

Council as Highway Authority, be up to the Countryside Service Design Standards, and a commuted sum provided to the County Council to cover the additional maintenance burden of an upgraded highway. Should it be proposed to be sealed and adopted then HCC Highways will need to be consulted and agree to take on future maintenance. The application does not include details on the proposed surfacing works, and a commuted sum has not been proposed. Until such information is provided to our satisfaction as the Highways Authority we object to this proposal.

Notwithstanding this, if you are minded to grant permission, we ask that the application be required to erect signage warning all drivers, including contractors and delivery drivers, of the presence of walkers and of the requirement to give way, and that a low-speed limit be imposed.

Planning Considerations - Key Issues

PRINCIPLE OF DEVELOPMENT AND VISUAL IMPACT

In relation to the 2012 appeal, the Council argued that, since the site lies outside of the urban area and is within the countryside and since there was no justification or demonstrable need for a new dwelling in this location, the proposal was contrary to Policy CS14 of the adopted Fareham Borough Core Strategy. The Planning Inspector determining the appeal disagreed with these assertions. The Inspector's view was that, although outside the defined urban area as shown in the local plan, the site does not fulfil the role or function of open countryside nor is it 'backland' in the normal meaning of the term. He concluded that there was sufficient evidence to make an exception to the local plan policy in this instance. Taking into account the appeal inspector's conclusions on this matter, the current proposal is considered to be acceptable in principle notwithstanding its location within the countryside designation of the local plan.

In considering the previous appeal, the planning inspector did not find the proposal to be overbearing or visually harmful to the character of the area. Notwithstanding therefore the previous concerns held by the Council over the likely effect of the new dwelling in this respect, it is acknowledged that matters such as the scale and design of the building could be reserved matters for future approval and the proposal is considered to accord with Policy CS17 of the adopted Fareham Borough Core Strategy.

HIGHWAY SAFETY AT THE ACCESS POINT WITH BOTLEY ROAD

The safety of the access onto and from Botley Road is the key planning consideration when determining this application. It has been the subject of deliberation by Officers ever since the 2012 appeal decision concluded the access proposed at that time was not acceptable for planning permission to be granted. That has led to the refusal of two subsequent applications on the grounds that Officers were not satisfied that the access as proposed would not be harmful to the safety of highway users.

In this latest submission the applicant has provided detailed drawings based on a newly carried out more accurate survey and showing the precise layout of the proposed access with Botley Road. The topographical features shown on the drawings have been verified by Officers and have been found to be accurate.

The drawings show, unlike previous submissions, how the existing access track from Botley Road to the site would be widened over the first 10 metres back from the carriageway on its southern side to allow for a 5 metre wide stretch. The owner of the access track from

Botley Road to the site itself is unknown. The applicant has owned the land where he proposes to build the house for a number of years but does not own the track and does not know who might do. He has attempted to trace the owner and, as required by law, has placed advertisements in the local press each time every one of the five applications for planning permission have been submitted. No one has come forward to lay claim to owning the track and Land Registry records for the access track do not name an owner. Whilst therefore the applicant does not own or control the track it is considered unlikely that an owner would come forward at a later date to prevent the proposed access improvements from being carried out. It is therefore reasonable to expect that the access improvements shown on the submitted drawings are capable of being carried out.

The drawings also show where the visibility splays in both a southward and northward direction should be taken from and the northward splay is shown in great detail. The previous applications and appeal decisions have focused chiefly on the visibility available to drivers leaving the site when looking northwards. Previously it was considered that, in order to obtain satisfactory visibility to a sufficient distance along the road drivers would need to rely on visibility over third party land (namely a small sliver of land within the ownership of 270 Botley Road and not the applicant). When lodging their appeal against the 2015 refusal the applicant produced these new drawings to demonstrate this wasn't the case however the Inspector in dealing with that appeal misunderstood the evidence before her. Nonetheless the drawings submitted with the current application confirm that satisfactory visibility northwards is achievable without relying on this third party land. If vegetation from the adjacent third party land were to overhang the visibility splay within the highway the highway authority Hampshire County Council could require it to be cut back.

In considering whether both the northward and southward visibility splays to be provided are adequate, Officers have had regard to the technical advice provided by the Council's Transport Planner and the evidence put forward by the applicant's own consultants. In particular there are two pieces of technical advice that have been considered in great detail.

The first of these concerns how far back from the edge of the carriageway should the visibility splays northwards and southward be measured from (referred to as the 'X' distance).

Both the Council's Transport Planner and the applicant have referred to the guidance set out in the Department for Transport's document Manual for Streets. At 7.7.6- 7.7.7 it says that:

"An X distance of 2.4m should normally be used in most built-up situations, as this represents a reasonable maximum distance between the front of the car and driver's eye.

A minimum figure of 2m may be considered in some very lightly-trafficked and slow-speed situations, but using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm. The ability of drivers and cyclists to see this overhang from a reasonable distance, and the manoeuvre around it without undue difficulty, should be considered".

Botley Road is not a lightly-trafficked route. The access track is however infrequently used by vehicular traffic and serves one house. Notwithstanding, the applicant considers a 2m 'X' distance to be acceptable. They contend that the visibility for drivers travelling along Botley Road is greater than 59 metres and they are therefore able to see the vehicle emerging from the junction in ample time to take appropriate action necessary. When dealing with

the 2012 application Officers agreed that a 2m 'X' distance was appropriate in this instance. The Planning Inspector who handled the subsequent appeal reiterated in his deliberation on the issue of highway safety that an 'X' distance of 2m was required and did not suggest that a greater distance of 2.4m was required. The Inspector dealing with the 2015 appeal also did not challenge the use of an 'X' distance of 2.0m. It must also be borne in mind that the existing access, which would be widened and improved if permission was granted, already serves one dwelling and Officers are not aware of any evidence of accidents having occurred.

The second technical point concerns how far should visibility northwards and southwards be provided (referred to as the 'Y' distance) and to what point in the road should this be measured. The applicant and Officers agree that 59m in each direction should be achieved.

To the north the visibility need not be to the nearside kerb since it is acknowledged that vehicles will normally be travelling a distance from the kerb line (Manual for Streets 7.7.3). The applicant has demonstrated that the 'Y' distance of 59m can be achieved without deviating from the kerb line more than 1 metre.

To the south the applicant and Officers agree that the 'Y' distance could be measured to the centerline of the carriageway (the nearest point where vehicles travelling on the approaching northbound side would be) and this is considered achievable in this instance. On this Manual for Streets says at 7.7.5:

"Some circumstances make it unlikely that vehicles approaching from the left on the main arm will cross the centerline of the main arm - opposing flows may be physically segregated at that point, for example. If so, the visibility splay to the left can be measured to the centerline of the main arm".

There is no physical barrier along the centre of Botley Road at this point. However, it is considered unlikely that vehicles travelling northward would move across into the right hand lane to the extent that vehicles emerging from the access track would be unable to see them. Overtaking is considered unlikely to occur regularly on this particular stretch because of the nature of the road dissuading drivers from doing so. Notwithstanding, if vehicles, including motorbikes, were to do so they would most likely still fall within the visibility of the emerging driver and in any event the vehicle being overtaken would since it would still be travelling in the left hand lane.

SAFETY OF USERS OF THE PUBLIC FOOTPATH USED TO ACCESS THE SITE

In refusing planning application ref. P/12/0373/OA the Council considered that the condition and width of the access track meant that vehicle movements associated with the dwelling would cause undue danger and inconvenience to users of the footpath. The appeal inspector found to the contrary, stating that the proposed widening and surfacing of the track would make it evident that it was for vehicular use as well as pedestrian. He found no harm to the safety and convenience of users of the footpath from the proposal.

The letters of representation received in relation to the current proposal have iterated that the neighbours living nearby believe usage of the footpath has increased in the last four years. Notwithstanding, in the appeal decision the inspector acknowledged that, "with the amount of new housing to the east, it might be expected that pedestrian use might increase". It is clear therefore that any increase in usage was taken into account at the time

the appeal was determined and still it was considered by the inspector that there was no conflict and that the safety and convenience of pedestrians would be safeguarded by the improvements to the track.

The inspector agreed with the Council's view that 15 metres forward visibility should be provided around the inside of the bend of the track by trimming back adjacent vegetation. The current proposal has clarified that 13.85 metres forward visibility is only actually possible. The advice received from the Council's Transport Planner is that, given the low speeds of traffic expected in this location on the lane, the proposed visibility would be sufficient to protect the safety of other users of the footpath.

The comments from the Countryside Access Development Officer at HCC indicate that their objection to the application is related to the fact that no financial contribution has been provided by the applicant. However, the track is not owned by HCC and the applicant has not indicated that they wish for the highway authority to adopt the footpath. With that in mind there would be no requirement for the applicant to make a contribution to the County Council for future maintenance of the access.

It is considered that there would be no justification for resisting granting planning permission on the basis that using the footpath to provide access to the new dwelling would be harmful to the safety or convenience of pedestrians.

ECOLOGY

The Council's ecologist has considered the revised ecology report submitted in support of the application. The advice received is that, subject to conditions, planning permission could be granted.

Additional dwellings may result in a corresponding increase in recreational visits to the Borough's coastline, part of the Solent Coastal Special Protection Areas which are internationally designed sites of importance for nature conservation. Policy DSP15 of the adopted Local Plan Part 2: Development Sites and Policies explains any such 'in combination' effects may be satisfactorily mitigated through the provision of a financial contribution towards the Solent Recreational Mitigation Strategy (SRMS). The applicant has been invited to provide the required financial contribution which would be secured through an agreement under section 111 of the Local Government Act 1972.

TREES

The Council's Tree Officer has not raised an objection to the application, however there has been concern raised by third parties over the ability for the site to be connected to services without causing harm to the protected trees on and adjacent to the site, in particular those adjacent the access track. Officers have sought clarification from the applicant on this matter and will provide a written update to Members of the Planning Committee.

Conclusion

The proposed application is very similar to that considered in previous planning applications and appeals. The views of the inspectors in dealing with the 2012 and 2015 proposals have been given weight accordingly when making the following recommendation.

The principle of development is considered acceptable and similarly it is not considered that the dwelling would appear overbearing subject to the scale and design of the development

being a reserved matter. There would be no material adverse harm to the safety of pedestrians through the use of the footpath to provide vehicular access to the dwelling.

The key issue of the safety of the access from Botley Road has been considered in great detail. Whilst it is acknowledged that the provision of satisfactory visibility for emerging drivers particularly in a northward direction is marginal, Officers consider that, on balance, the applicant has been able to demonstrate that the access arrangements proposed would not be materially harmful to highway safety.

Having regard therefore to the relevant development plan policies and taking into account other material considerations including the technical advice provided by the Council's Transport Planner and the findings of the Planning Inspectors, the proposed development is recommended favourably for permission.

Recommendation

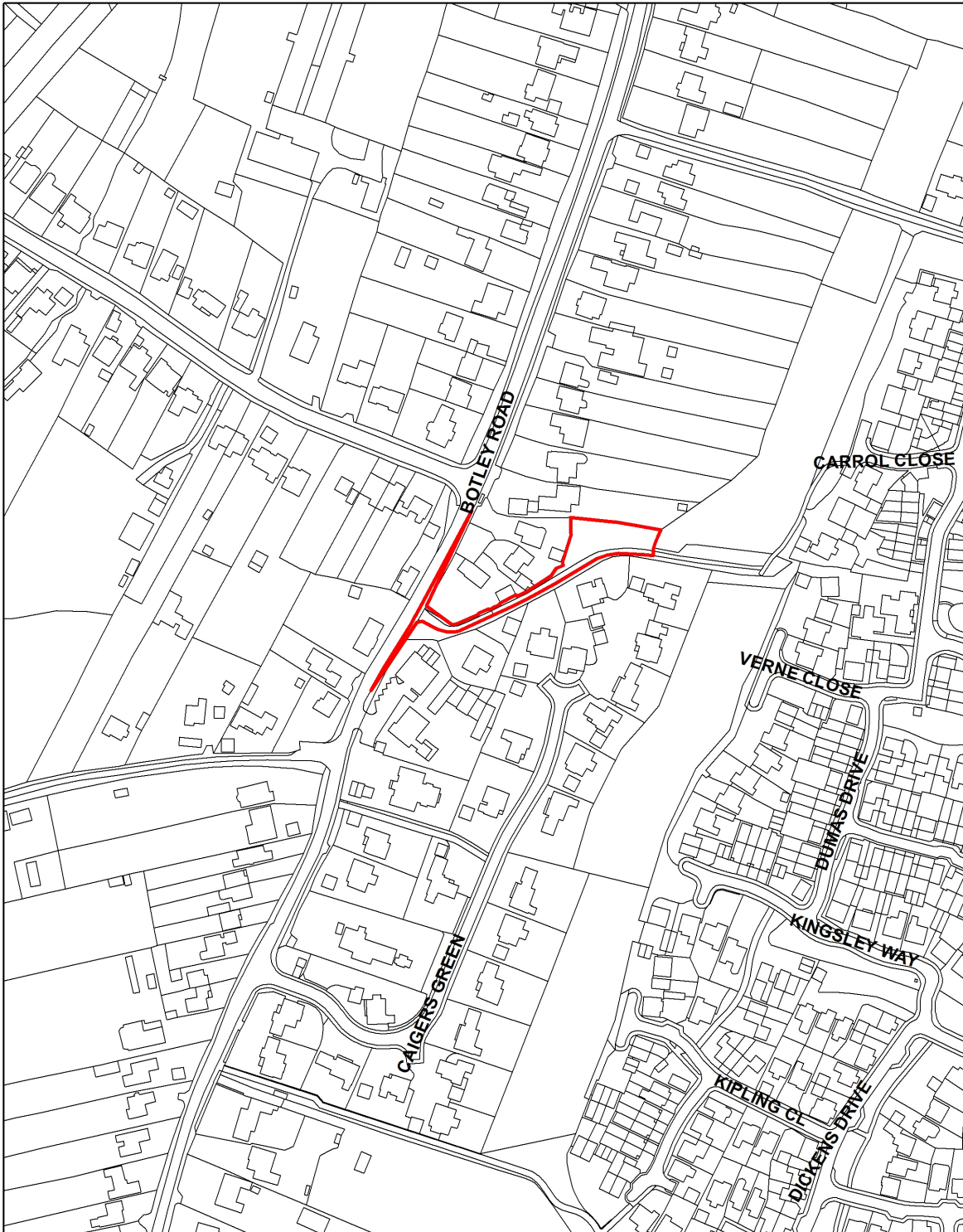
Subject to the applicant making a financial contribution towards the Solent Recreational Mitigation Strategy (SRMS) secured through an agreement under section 111 of the Local Government Act 1972:

PERMISSION subject to conditions:

Conditions to be provided in a written update to Members prior to the Committee meeting.

FAREHAM

BOROUGH COUNCIL



274 Botley Road
Scale 1:2500



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