

Report of the Interim Director of Planning, Regeneration & Public Realm

Address WATERDELL FARM SPRINGWELL LANE HAREFIELD

Development: Conversion of 2 no. agricultural barns at Waterdell Farm to 5 no. dwellinghouses (Class C3), with associated building operations including installation of new windows, doors, rooflights, re-roofing and external cladding (Application for Prior Approval under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)).

LBH Ref Nos: 39606/APP/2022/2435

Drawing Nos: 787-030a
787-030b
787-100a
787-100b
787-101a
787-010
787-020a
Site Photograph Sheet
787-003
787-002
787-001 Issue P1
Covering letter and Planning Statement (dated 02.08.2022, Ref: HPD/AH/20/150)
787-101b
787-110a
787-111a
787-110b
787-111b
787-120a

Date Plans Received: 03/08/2022

Date(s) of Amendment(s):

Date Application Valid: 03/08/2022

1. RECOMMENDATIONS

1.1 Recommendations

PRIOR APPROVAL REFUSED

REASONS FOR REFUSAL

The proposed development does not constitute permitted development by virtue of the provisions of paragraph Q.1(i), Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) because insufficient information has been provided to demonstrate that the development proposed would not go beyond building operations reasonably necessary to convert the existing barn buildings into dwellinghouses.

The proposed development does not constitute permitted development by virtue of the

provisions of Condition Q2-(1)(a), Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) because the applicant has failed to demonstrate that the development proposed would not have adverse transport and highway impacts. This is by virtue of the red line boundary failing to demonstrate that appropriate, safe access has been secured to the site, as well as sufficient off street parking.

2.0 Planning Considerations

Class Q - agricultural buildings to dwellinghouses

Development not permitted

Q.1 Development is not permitted by Class Q if-

- (a) the site was not used solely for an agricultural use as part of an established agricultural unit-
- (i) on 20th March 2013, or
- (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or
- (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;

Planning Officer Comment: The planning history attached to this site is referenced below.

- LPA ref: 39606/APP/2000/2685 - Change of Use from Agricultural to Paddock for Dog Training Activities (Retrospective Application). Approved 25th July 2001.
- LPA ref: 39606/APP/2002/1518 - Renewal of Planning Permission Ref. 39606/App/2000/2685 Dated 25/07/2001; Change of Use from Agricultural to Paddock for Dog Training Activities. Approved 31st January 2003.

Condition 1 of LPA Ref: 39606/APP/2002/1518 stated the following:

"The building and use hereby permitted shall be discontinued and the land restored to its former condition on or before 30 January 2005."

The submitted Planning Statement confirms that the dog training activities have ceased, and the land has been restored to its former agricultural condition. The Council is not in possession of any evidence to contradict otherwise. It is therefore considered, as a matter of fact and degree, that the temporary change of use from agriculture to the dog training use permitted under LPA Ref: 39606/APP/2002/1518 has expired, and the lawful use of the site and associated barns has reverted back to agriculture.

(b) in the case of-

- (i) a larger dwellinghouse, within an established agricultural unit-
- (aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or
- (bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;

Planning Officer Comment: The proposal would provide three 'smaller dwellinghouses' in Barn No.1 and two 'larger dwellinghouses' in Barn No.2. The floor space of the larger dwellinghouses would be 381 sqm and the smaller dwellinghouses would be 248 sqm. The total floor space would be 629 sqm.

The question whether paragraph Q.1.(b)(i)(bb) solely relates to larger dwellinghouses or

to both smaller dwellinghouses is explored by the Secretary of State in the St Albans City & District Council Appeal Decision (Manor Farm, Sheepcote Lane, Ref: APP/B1930/W/18/3213778).

The Inspector states in paragraph 10 of Appeal Decision Ref: APP/B1930/W/18/3213778 that:

"Paragraph Q.1.(b) starts by stating 'in the case of (i) a larger dwellinghouse' and in my view, therefore, this paragraph deals exclusively with larger dwellinghouses. In this context, the reference in Q.1.(b)(i)(bb) to 'or dwellinghouses' is simply the plural to the wording 'larger dwellinghouse' that precedes it in the sentence. Based on this analysis, this paragraph only limits the larger dwellinghouses component, which cannot exceed 465 sqm. This limitation would not prevent additional smaller dwellinghouses in accordance with the other limitations. This is consistent with the wording in paragraph Q.1.(d)(i)."

Paragraph 12 of Appeal Decision Ref: APP/B1930/W/18/3213778 goes on to further state that:

"...the Planning Practice Guidance (the Guidance) does advise on this matter. The Guidance (Paragraph 104 Reference ID: 13-104-20180615) explains that the Class Q permitted development right allows for a maximum number of the following types of houses: up to 3 larger homes, to be greater than 100 square metres and within an overall floorspace of 465 square metres' or up to 5 smaller homes each no greater than 100 square metres; or up to 5 homes comprising a mixture of larger and smaller homes, with neither exceeding the thresholds for each type of home."

Having regard to this Appeal Decision, it is concluded that the cumulative floorspace of the larger dwellinghouses proposed would not exceed the limitations set out in paragraph Q.1.(b)(i)(bb), Class Q of the GPDO.

(ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;

Planning Officer Comment: None of the proposed dwellings exceed 465sqm in total floorspace.

(c) in the case of-

(i) a smaller dwellinghouse, within an established agricultural unit-

(aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or

(bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;

Planning Officer Comment: The cumulative number of separate smaller dwellinghouses being proposed in Barn 1 is 3. None of the proposed 'smaller dwellinghouses' will exceed 100 sqm.

(d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following-

(i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

(ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

Planning Officer Comment: The proposed two larger dwellinghouses provided in Barn No. 2 would have a cumulative floor space of 381 sqm, which is less than 465 sqm. The cumulative number of separate Class C3 dwellinghouses created by the development will equate to 5.

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

Planning Officer Comment: The submitted Planning Statement confirms that the site is not occupied under an agricultural tenancy.

(f) less than 1 year before the date development begins-

(i) an agricultural tenancy over the site has been terminated, and

(ii) the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;

Planning Officer Comment: The submitted Planning Statement confirms that no agricultural tenancy over the site has been terminated within the last year.

(g) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit-

(i) since 20th March 2013; or

(ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;

Planning Officer Comment: The submitted Planning Statement confirms that all of the agricultural buildings located on site have been in situ for over 30 years, well prior to 20th March 2013. The Council is not in possession of any evidence which would suggest that development under Class A(a) or Class B(a) of Part 6 of this Schedule has been carried out since 20th March 2013.

(h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

Planning Officer Comment: The external dimensions of the proposed buildings do not extend beyond the external dimensions of the existing buildings.

(i) the development under Class Q(b) would consist of building operations other than-

(i) the installation or replacement of-

(aa) windows, doors, roofs, or exterior walls, or

(bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);

Planning Officer Comment:

Paragraph 105 of the Planning Practice Guidance states that "It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is

only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right."

In terms of what is 'reasonably necessary', the *Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853* establishes where works would be so significant so as to amount to rebuild or fresh build, this would go beyond what is considered a conversion and as such beyond the provisions of Class Q.

The proposal includes the installation/replacement of windows, doors, roofs and exterior walls of the existing barns.

Whilst it is noted that individually these identified proposed works would not fall outside of the operations given in paragraph Q.1(i), this does not necessarily mean that cumulatively such operations could not go beyond what would be considered 'reasonably necessary' for the conversion of the buildings.

No structural report by a qualified professional has been submitted to demonstrate that the buildings are structurally capable of being inhabited as a dwelling. Nor has any robust information been provided outlining the degree of building work that would be required to complete the development. It is noted that a new first floor level would be constructed within the buildings in conjunction with a new roof and window and door openings. It is questioned whether the existing foundations/footings of the barns could support such building works without any significant structural interventions. No structural calculations have been submitted to demonstrate otherwise.

In light of the above, and when considering the totality of the work, it cannot be ascertain that the building operations which would go beyond those considered reasonably necessary for the buildings to function as a dwellinghouses would not be required. The proposed development therefore fails to comply with the terms of permitted development rights under paragraph Q.1(i), Class Q of the GPDO.

(j) the site is on article 2(3) land;

Planning Officer Comment: The site is not on Article 2(3) land.

(k) the site is, or forms part of-

- (i) a site of special scientific interest;
- (ii) a safety hazard area;
- (iii) a military explosives storage area;

Planning Officer Comment: The site is not affected by any of these matters.

(l) the site is, or contains, a scheduled monument; or

Planning Officer Comment: The site does not contain a scheduled monument.

(m) the building is a listed building.

Planning Officer Comment: None of the buildings on the site are listed buildings.

Notwithstanding the failure to comply with paragraph Q.1(i), Class Q of the GPDO, the following section of this report will consider the detailed prior approval matters under Paragraph Q.2.

Conditions

Q.2- (1) Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to-

- (a) transport and highways impacts of the development,

Planning Officer Comment: It should be noted that the access road leading to the application buildings and 6 of the proposed on-site car parking spaces do not form part of the site curtilage (i.e. the red line boundary). This has a material impact on transport and highways, and the full impact cannot be assessed.

The Council's Highways Officer has reviewed the application and provided the following comments. However, these are based on assumptions with respect to land ownership and the site boundary.

Parking Provision/Layout:

Hillingdon Local Plan: Part 2 Policy - DMT 6 requires that new development will only be permitted where it accords with the council's adopted parking standards unless it can be demonstrated that a deviation from the standard would not result in a deleterious impact on the surrounding road network.

London Plan (2021): Policy T6.1 (Residential Parking) requires that new residential development should not exceed the maximum parking standards as set out in table 10.3.

The maximum Hillingdon parking standard requires up to 2 spaces per unit to be provided on-site with a comparable demand by the regional London Plan (2021). This quantum, arranged in a communal fashion, is confirmed within the extent of the site layout which would also allow for vehicles to enter and leave the site envelope in a forward gear which is desirable and recommended on highway safety grounds.

The allocation of spaces would benefit from a parking allocation plan to secure adequate provision for each unit in perpetuity hence this should be arranged accordingly.

Electric Vehicle Charging Points (EVCP's):

In line with the London Plan (2021), within any final parking quantum there is a requirement for a minimum 20% 'active' EVCP provision with all remaining spaces being designated as 'passive' provisions. 2 'active' on-plot parking spaces should therefore be provided with the remainder (8) dedicated to 'passive' provision. This is not acknowledged by the applicant hence should be secured accordingly. [This matter would have been resolved by the imposition of a planning condition, if this application had been recommended for approval.]

Cycle Parking:

In terms of cycle parking there should be a provision of 2 secure and accessible spaces for each dwelling unit in order to conform to the adopted borough cycle parking standard. This has been confirmed by the applicant hence there are no further observations. [Full details of the cycle store, including location, dimensions and finishes, would have been secured by condition, if this application had been recommended for approval.]

Vehicular Access and Internal Arrangements :

In highway impact terms, there is no specific objection in principle to the use of the existing site access/egress from Springwell Lane due to the relatively moderate scale of anticipated vehicular generation.

Refuse Bin Store Provision:

Refuse collection would occur from Springwell Lane and bin storage positioning should conform with accepted 'waste distance' collection standards which encourage waste collection distances to be within 10m from the point of collection on the roadway. As the proposal site is set centrally and deep within the main farm envelopment, far in excess of the said distance parameter, this aspect requires resolution.

To aid matters, a number of options are available for consideration:

- For this scale of development, it is likely to be in the best interest of the new occupiers to place their refuse within the 10m distance parameter if they wish for their refuse to be collected. However, the 'drag' distance from the barn redevelopment area to the highway (Springwell Lane) is up to 200m hence this may not be a practical option.
- Alternatively, a smaller refuse vehicle may need to enter the site envelope to execute waste pick-up. This exercise would aim to demonstrate that all service/refuse vehicles entering the site can perform their function and be satisfactorily accommodated without detriment to the internal site workings. The importance of this aspect is particularly vital given the Green Belt status of the site envelope.

As no refuse collection related detail has been presented, this aspect may raise further comment from LBH's waste collection services necessitating final arrangements being secured post-determination. [A refuse management strategy and full details of the location, dimensions and finishes of the bin stores would have been secured by condition, if this application had been recommended for approval.]

Conclusion:

Transport and Highway Impact Terms:

In accord with the Town and Country Planning General Permitted Development (GPD) Order 2015 (Class Q - part 3 of schedule 2) (as amended) there is broadly no specific objection to the proposal. To expand - the proposal is unlikely to measurably affect overall traffic generation to and from the site or indeed create undue on-street parking demand due to the indicated and satisfactory level of on-plot parking provision. Hence, on balance, in 'highway/transport' terms the proposal does not demand a requirement for Prior Approval, subject to conditions.

(b) noise impacts of the development,

Planning Officer Comment: With regards to Q.2- (1)(b), it is considered that noise impacts of the development would be acceptable given the rural setting of the site. The Council's Noise Officer has raised no objection on this ground.

(c) contamination risks on the site,

Planning Officer Comment: The site is designated within a Landfill Buffer Zone according

to the Council's GIS. In the absence of required information to identify and confirm condition of the land and its suitability for the proposed change of use at the site, the Council's Contamination Officer recommends the following conditions to be imposed if planning consent is awarded:

Conditions for land affected by contamination

- (i) The development shall not commence until a scheme to deal with unacceptable contamination, has been submitted to and approved by the Local Planning Authority (LPA). All works which form part of any required remediation scheme shall be completed before any part of the development is occupied or brought into use unless the Local Planning Authority dispenses with any such requirement specifically and in writing. The scheme shall include the following measures unless the LPA dispenses with any such requirement specifically and in writing:
 - a) A desk-top study carried out by a competent person to characterise the site and provide information on the history of the site/surrounding area and to identify and evaluate all potential sources of contamination and impacts on land and water and all other identified receptors relevant to the site.
 - (b) A site investigation including, soil, soil gas, surface water and groundwater sampling, together with the results of analysis and risk assessment shall be carried out by a suitably qualified and accredited consultant/contractor. The report should also clearly identify all risks, limitations and recommendations for remedial measures to make the site suitable for the proposed use; and
 - c) Prior to commencement of construction works a written method statement providing details of a remediation scheme, and how completion of the remedial works will be verified shall be agreed in writing with the LPA, along with details of a watching brief to address any previously undiscovered contamination. No deviation shall be made from this scheme without the express agreement of the LPA prior to its implementation.
- (ii) If during remedial or development works contamination not addressed in the submitted remediation scheme is identified, an addendum to the remediation scheme shall be agreed with the LPA prior to implementation; and
- (iii) Upon completion of the approved remedial works this condition will not be discharged until a comprehensive verification report has been submitted to and approved by the LPA. The report shall include the details of the final remediation works and their verification to show that the works have been carried out in full and in accordance with the approved methodology.
- (iv) No contaminated soils or other materials shall be imported to the site. All imported soils for landscaping and/or soil engineering purposes shall be clean and free of contamination. Before any part of the development is occupied, all imported soils shall be independently tested for chemical contamination, and the results of this testing shall be submitted, within a detailed factual and interpretive report, for approval in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Hillingdon Local Plan: Part 2 (January 2020) Policies - DMEI 11: Protection of Ground Water

Resources and DMEI 12: Development of Land Affected by Contamination.

(d) flooding risks on the site,

Planning Officer Comment: The site falls within Flood Zone 1. It is not designated within a Critical Drainage Area or Surface Water Management Area. As such, there is low risk of tidal, fluvial and surface water flooding. The site is not

(e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, and

Planning Officer Comment: The site is accessed from the existing private drive off Springwell Lane, with areas of hardstanding providing space for car parking. The open fields provide areas for private amenity space associated with the new dwellings. The location and siting of the buildings will not restrict their practical use for residential purposes.

The application site is in close proximity to residential dwellings including the Bungalow at Waterdell Farm. The site is also situated a short 5-minute drive from the village of Harefield, with services and facilities. The proposed dwellinghouses would, therefore, not be entirely isolated such that their location could be seen as undesirable.

(f) the design or external appearance of the building

Planning Officer Comment: The existing agricultural buildings are not considered to be of important architectural merit. The proposed design of the external appearance of the buildings is not considered to cause harm to the character and appearance of the wider rural area.

(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

Planning Officer Comment: All habitable rooms of the dwellinghouses would receive an adequate provision of natural light.

Paragraph 3, (9A) of the GPDO states that: (Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse)

(a) where the gross internal floor area is less than 37 square metres in size; or

(b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

Planning Officer Comment: The proposed dwellings would comply with the nationally described space standard.

Suitability of Siting and Location

Refer to the Section 2.0 of this report.

Noise Impact

Refer to the Section 2.0 of this report.

Traffic Impact

Refer to the Section 2.0 of this report.

Contamination

Refer to the Section 2.0 of this report.

Flooding

Refer to the Section 2.0 of this report.

Consultation

Six neighbouring properties were consulted on 17th August 2022. A site notice was displayed on 23rd August 2022. The consultation period expired on 13th September 2022. One objection was received, and their comments are summarised as follows:

- Harm to Green Belt
- Loss of the farm use of the site
- Increased traffic on a single track road.

Planning Officer Response: The harm caused to the Green Belt is not material to an assessment against the requirements of the GPDO. The latter two points are considered in Section 2.0 of this report.

Council's Highways Officer: No objection , subject to conditions- refer to Section 2.0 for the full response.

Council's Contamination Officer: No objection , subject to conditions- refer to Section 2.0 for the full response.

Council's Noise Officer: No objection. This appears to be in a rural setting, probably affected by distant anthropogenic activity from a noise perspective. Hence imposing a condition would seem disproportionate.

Relevant Planning History

39606/A/87/1215 Waterdell Farm Springwell Lane Harefield

Erection of 3-bed bungalow & detached garage

Decision Date: 08-02-1989 Approved

39606/APP/2000/2685 Waterdell Farm Springwell Lane Harefield

CHANGE OF USE FROM AGRICULTURAL TO PADDOCK FOR DOG TRAINING ACTIVITIES
(RETROSPECTIVE APPLICATION)

Decision Date: 25-07-2001 ALT

39606/APP/2002/1518 Waterdell Farm Springwell Lane Harefield

RENEWAL OF PLANNING PERMISSION REF. 39606/APP/2000/2685 DATED 25/07/2001;
CHANGE OF USE FROM AGRICULTURAL TO PADDOCK FOR DOG TRAINING ACTIVITIES

Decision Date: 31-01-2003 ALT

39606/APP/2021/1348 Waterdell Farm Springwell Lane Harefield

Erection of an additional storey (Application under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended))

Decision Date: 15-06-2021 PRN

39606/APP/2021/1349 Waterdell Farm Springwell Lane Harefield

Erection of single storey rear extension and single storey side extension to existing bungalow, with associated alterations and works (Application for a Certificate of Lawful Development for a Proposed Development)

Decision Date: 24-06-2021 Approved

39606/APP/2021/3731 Waterdell Farm Springwell Lane Harefield

Erection of an additional storey (Application under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended))

Decision Date: 29-11-2021 PRN

39606/APP/2021/3745 Waterdell Farm Springwell Lane Harefield

Erection of single storey outbuilding in rear garden (Application for a Certificate of Lawful Development for a Proposed Development)

Decision Date: 08-12-2021 Refused

39606/APP/2021/639 Waterdell Farm Springwell Lane Harefield

Use of dwelling (Use Class C3) without complying with condition 5 of planning permission Ref: 39606A/87/1215 (Application for a Certificate of Lawful Development for an Existing Development)

Decision Date: 23-04-2021 Refused

39606/APP/2022/1729 Waterdell Farm Springwell Lane Harefield

Non-Material Amendment to Prior Approval ref: 39606/APP/2021/3731 dated 29-11-2021, comprising minor changes to the approved plans including the design of dormers, size/location of first floor windows and the addition of 5 no. rooflights.

Decision Date: 03-08-2022 NFA

39606/APP/2022/1743 Waterdell Farm Springwell Lane Harefield

Erection of 2 outbuildings to rear garden (Application for a Certificate of Lawful Development for a Proposed Development)

Decision Date: 19-08-2022 Refused

39606/APP/2022/2547 Waterdell Farm Springwell Lane Harefield

Erection of an additional storey (Application under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)).

Decision Date:

39606/D/90/0783 Waterdell Farm Springwell Lane Harefield

Details of landscaping in compliance with condition 2 of planning permission ref. 39606A/87/1215 dated 8.2.89 and retention of front boundary wall; Erection of 3-bed bungalow and detached garage

Decision Date: 19-01-1999 NFA

39606/E/92/0095 Waterdell Farm Springwell Lane Harefield

Retention of mobile home for living accommodation (retrospective application)

Decision Date: 12-06-1992 ALT

39606/G/94/1610 Waterdell Farm Springwell Lane Harefield

Re-use of barn/stables for residential purposes

Decision Date: 17-04-1998 Refused
39606/H/95/0706 Waterdell Farm Springwell Lane Harefield
Retention of a mobile home for living accommodation

Decision Date: 19-02-1998 NFA
39606/J/97/0148 Waterdell Farm Springwell Lane Harefield
Retention of mobile home for living accommodation (retrospective application)

Decision Date: 17-04-1998 Refused

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