

Committee Report

Item No: 1

Reference: B/17/01059

Case Officer: Melanie Corbishley

Ward: Lower Brett

Ward Member/s: Cllr John Ward

Description of Development

Erection of detached dwelling with double cartlodge and construction of new vehicular access

Location

Land North of Wood View, Stackwood Road, Polstead

Parish: Polstead

Site Area: 0.13 ha

Conservation Area: No

Listed Building: No

Received: 24/04/2017

Expiry Date: 20/06/2017

Application Type: FUL - Full Planning Application

Development Type: Minor Dwellings

Environmental Impact Assessment:

Applicant: Mr & Mrs Lay

Agent: Suffolk Design & Build

DOCUMENTS SUBMITTED FOR CONSIDERATION

This decision refers to drawing number 443.16.02 received 24/04/2017 as the defined red line plan with the site shown edged red. Any other drawing showing land edged red whether as part of another document or as a separate plan/drawing has not been accepted or treated as the defined application site for the purposes of this decision.

The plans and documents recorded below are those upon which this decision has been reached:

Supporting Statement PLANNING STATEMENT - Received 24/04/2017

Ecological Survey/Report PRELIMINARY ECO APPRAISAL - Received 24/04/2017

Site Location Plan 443.16.03 - Received 24/04/2017

Defined Red Line Plan 443.16.02 - Received 24/04/2017

General Details 443.16.02 - Received 24/04/2017

Proposed Plans and Elevations 443.16.01 C - Received 24/04/2017

The application, plans and documents submitted by the Applicant can be viewed online at www.babergh.gov.uk. Alternatively a copy is available to view at the Mid Suffolk and Babergh District Council Offices.

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason/s:

- **This application is referred to Planning Committee at the request of Councillor Ward.**

PART TWO – APPLICATION BACKGROUND

History

The planning history relevant to the application site is listed below. A detailed assessment of the planning history including any material Planning Appeals will be carried out as needed in Part Three:

B/16/01542	Erection of detached dwelling with double cartlodge and construction of new vehicular access	Refused 12/01/2017
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Details of Previous Committee / Resolutions and any member site visit

None

Details of any Pre Application Advice

None

Consultations and Representations

During the course of the application Consultation and Representations from third parties have been received. These are summarised below.

A: Summary of Consultations

Polstead Parish Council - Object to the application on the grounds that the proposal:

- i. is out of keeping in design and character to the neighbouring property
- ii. does not meet the exceptional need criteria of policy CS2 nor the special circumstances of policy NPPF 55 for building in the countryside
- iii. does not meet the criteria established in policy CS11 as it does not have a close functional relationship to the existing development and lacks the availability of services and facilities.

SCC - Highways And Rights Of Way - No objection and suggests conditions regarding the width of the new access and visibility splay.

SCC Archaeology - No comments received.

Suffolk Wildlife Trust - No objection, request conditions requiring compliance within the ecological survey report and the restriction of the adjoining site, a county wildlife site, being used for parking and turning of vehicles and the storage of materials.

B: Representations

One representation received from a neighbour making the following comments:

- The application is excessive and unlawful.
- The house is excessive and not in keeping with the area
- Shadowing of garden belonging to Wood View

Representation received from Suffolk Preservation Society:

Although there are a number of late 20th century properties sporadically spaced along the road, the area retains a rural feel and the Society considers that further development will create an undesirable ribbon like development pattern. Moreover we consider that this is an unsustainable location for further residential development as it is remote from the village and lacks a safe pedestrian link.

In the consideration of this application, Core Strategy policies CS2 (Settlement Pattern) and CS11 (Strategy for Development for Core and Hinterland Villages) remain material considerations with respect to the supply of housing. However CS15 Sustainable Development, when read against the judgment of the Supreme Court, should not be seen as a policy for the supply of housing. Therefore this local plan policy should continue to be given full weight. We would remind you that the previous submission of this application was refused on the grounds that it was contrary to CS15. The proposal remains in open countryside and in a location poorly related to the existing settlement and therefore continues to be an unsustainable development. Furthermore as an application for one dwelling only, the public benefit of the proposal is limited and will contribute very little to the delivery of housing within the district. For these reasons we strongly urge that this application is resisted.

PART THREE – ASSESSMENT OF APPLICATION

From an assessment of relevant planning policy and guidance, representations received, the planning designations and other material issues the main planning considerations considered relevant to this case are set out including the reason/s for the decision, any alternative options considered and rejected. Where a decision is taken under a specific express authorisation, the names of any Member of the Council or local government body who has declared a conflict of interest are recorded.

1. The Site and Surroundings

- 1.1. The plot is an L shaped parcel of land to the north of a dwelling known as Wood View on the east side of Stackwood Road. The land appears to be agricultural as it is not garden land and there is no planning history suggesting otherwise. The Planning Statement refers to use as an allotment.
- 1.2. The plot is in the countryside, beyond the Built Up Area Boundary of any town/village, surrounded by farmland and sporadic development along the road.

2. The Proposal

- 2.1. The application proposals can be summarised as follows:
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- Erection of a two storey detached house towards the centre of the plot
- double cart lodge in the NE corner
- New (relocated) access from road in NW corner

3. National Planning Policy Framework

3.1. The National Planning Policy Framework (NPPF) contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes. The following paragraphs from the NPPF are relevant for this case:

- Core Planning principles- Para.17
- Supporting a Prosperous Rural Economy- Para.28
- Dwellings in the Countryside-para.55
- Requiring Good Design- paras 56-68

4. Core Strategy

4.1. The following Core Strategy policies are considered relevant to the determination of this application:

- CS1- Presumption in Favour of Sustainable Development
- CS2- Settlement Pattern Policy
- CS3- Strategy for Growth and Development
- CS11- Core and Hinterland Villages
- CS15- Sustainable Development in Babergh

5. Neighbourhood Plan/Supplementary Planning Documents/Area Action Plan

5.1. Suffolk County Council Parking Standards 2015

6. Saved Policies in the Local Plans

6.1. The following saved Local Plan policies are considered relevant to the determination of this application:

- CN01- Design Standards
- TP15- Parking Standards

7. The Principle of Development

7.1. The National Planning Policy Framework (NPPF) requires Councils to identify and update, on an annual basis, a supply of specific deliverable sites sufficient to provide for five years worth of housing provision against identified requirements (paragraph 47). For sites to be considered deliverable they have to be available, suitable, achievable and viable.

7.2. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites (as stated in paragraph 49 of the NPPF).

Where policies cannot be considered up-to-date, the NPPF (paragraph 14) cites the presumption in favour of sustainable development and states that planning permission should be granted unless i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or ii) specific policies in the NPPF indicate development should be restricted.

- 7.3. The precise meaning of 'relevant policies for the supply of housing' has been the subject of much case law, with inconsistent results. However last month, the Supreme Court gave judgment in a case involving Suffolk Coastal District Council which has clarified the position. The Supreme Court overruled earlier decisions of the High Court and the Court of appeal in this and other cases, ruling that a "narrow" interpretation of this expression is correct; i.e. it means policies identifying the numbers and location of housing, rather than the "wider" definition which adds policies which have the indirect effect of inhibiting the supply of housing, for example, countryside protection policies. However, the Supreme Court made it clear that the argument over the meaning of this expression is not the real issue. The absence of a five year housing land supply triggers the application of paragraph 14 of the NPPF. In applying the 'tilted balance' required by this paragraph, the Council must decide what weight to attach to all of the relevant development plan policies, whether they are policies for the supply of housing or restrictive 'counterpart' policies such as countryside protection policies.
 - 7.4. In accordance with National Planning Policy Guidance paragraph 030 (Reference ID: 3-030-20140306) the starting point for calculating the 5 year land supply should be the housing requirement figures in up-to-date adopted Local Plans. It goes on to state that '...considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light....Where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints...'
 - 7.5. The Council published the Ipswich and Waveney Housing Market Areas Strategic Housing Market Assessment (SHMA) in May 2017 which is significant new evidence for the emerging Babergh and Mid Suffolk Joint Local Plan. Therefore, the 5 year land supply has been calculated for both the adopted Core Strategy based figures and the new SHMA based figures. For determining relevant planning applications, it will be for the decision taker to consider appropriate weight to be given to these assessments and the relevant policies of the development plan.
 - 7.6. A summary of the [BDC] Council's 5 year land supply position is:
 - i. Core Strategy based supply for 2017 to 2022 = 4.1 years
 - ii. SHMA based supply for 2017 to 2022 = 3.1 years
 - 7.7. Policy CS1 is the local reflection of the presumption in favour of sustainable development and is embedded within the development plan. It includes the position that where relevant policies are out-of-date at the time of the decision, the Council will grant planning permission (unless material considerations indicate otherwise), taking into account whether any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF overall, or specific policies in the NPPF indicate that development should be restricted. Since there is not, on any measure, a 5 year land supply, paragraph 49 of the NPPF deems the relevant housing policies of the Core Strategy to be out-of-date, so triggering both the 'tilted balance' in paragraph 14 of the NPPF, and the operation of Policy CS1.
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- 7.8. The NPPF requires that development be sustainable and that adverse impacts do not outweigh the benefits to be acceptable in principle. Paragraph 7 of the NPPF sets out three dimensions for sustainable development, economic, social and environmental:

"an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure:

a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy."

- 7.9. In light of all of the above, this report will consider the proposal against the three strands of sustainable development, and also give due consideration to the provisions and weight of the policies within the development plan, in the context of the authority not being able to demonstrate a 5 year land supply.

8. Sustainability Assessment Of Proposal (including assessment against the development plan and the NPPF)

- 8.1. National guidance in the NPPF restricts development in the countryside for reasons of sustainability and for protection of its intrinsic value. The NPPF advises that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 55 of the NPPF sets out criteria for assessing new dwellings in the countryside and states that LPAs should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling.

- 8.2. Paragraph 55 does not indicate that any new home in the countryside which is not isolated should necessarily be accepted. Nor does it define or limit the meaning of "isolated". It is the view of officers that this term does not merely relate to the existence or absence of nearby dwellings, but must be read in the context of the broad overall aim of paragraph 55, which is to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities and where it has good access to facilities and services.

- 8.3. Policy CS2 of the Core Strategy sets out the District's settlement policy and states that most new development will be directed sequentially to the towns/urban areas, Core and Hinterland villages.
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Para. 2.8.6 states (inter alia) that while small groups of dwellings and hamlets will fall within functional clusters, their remoteness and lack of services or facilities mean that such groups are classified as countryside.

- 8.4. Policy CS2 states that in the countryside, outside the towns / urban areas, Core and Hinterland Villages (as defined in the policy), development will only be permitted in exceptional circumstances subject to a proven justifiable need.
 - 8.5. Policy CS15 of the Core Strategy sets out a range of criteria related to the elements of sustainable development and the principles of good design and which are to be applied to all developments, as appropriate, dependant on the scale and nature of the proposal. It requires that new development should ensure that an appropriate level of services, facilities and infrastructure are available to serve the proposed development (Part (v)) and that development should seek to minimise the need to travel by car (Part xviii).
 - 8.6. Whilst Polstead is defined as a hinterland village in policy CS2 of the Core Strategy, the application site is remote from the built up area boundary to the south being 500m away and is therefore deemed to be within the countryside. Moreover there are no day to day services or facilities in that area of Polstead and, as acknowledged by the Applicant, a public house, village shop/post office and village hall in Polstead are 1.5miles away from the site.
 - 8.7. There is a bus stop 0.25 miles from the site, but bus services do not run into the evening and access by foot is difficult as Stackwood Road is narrow, unlit and has no pedestrian footway. Consequently there would be a reliance on the private motor car.
 - 8.8. Paragraph 55 does not indicate that any new home in the countryside which is not isolated should necessarily be accepted. Nor does it define or limit the meaning of "isolated". This term does not merely relate to the existence or absence of nearby dwellings, but must be read in the context of the broad overall aim of paragraph 55, which is to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities and where it has good access to facilities and services.
 - 8.9. Although there are dwellings in proximity to the application site it is not considered that the site relates well to the existing settlement and therefore it is considered to be in an isolated location in the countryside, remote from established settlements and local services and facilities.
 - 8.10. Policy CS2 of the Babergh Core Strategy states that development in the countryside "...will only be permitted in exceptional circumstances subject to a proven justifiable need".
 - 8.11. The acceptability of the principle of development in this location against Policy CS2 is not considered to be satisfied as there are not considered to be exceptional circumstances.
 - 8.12. The Core Strategy offers greater flexibility through planning policy (CS11) to support rural development on land which has a close functional relationship to the existing settlement. However, the site, is remote from the settlement boundary and not considered to be functionally well connected.
 - 8.13. The Council's SPD (section 15) sets out that: ' ...distances should be considered alongside the quality and continuity of the footpath connection. Connections between any proposal and village services and facilities should be continuous and have a good quality surface. The need for and appropriateness of street lighting will be considered on a case by case basis.' In consideration against the Council's policy and supplementary guidance the connectivity to services is not considered to meet the policy requirements.
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- 8.14. CS11 is not therefore considered relevant in this instance given the remoteness of the site from Polstead and local services (as demonstrated above). Furthermore, the proposed development is unacceptable in principle by reason of its isolated location in the countryside and that no exceptional circumstances or proven justifiable need for the development has been put forward.
- 8.15. The applicant has not, therefore, demonstrated a case to set out that the application would be considered as 'exceptional' under the provisions of Policy CS2 or the provisions of paragraph 55 of the NPPF. This needs to be considered in the light of the absence of a 5 year land supply, and the balance is undertaken within the 'Planning Balance' section of this report.
- 8.16. Furthermore, policy CS15 sets out how sustainable development will be implemented in Babergh. Criterion iv) of policy CS15 requires seeks to ensure that an appropriate level of services, facilities and infrastructure are available or provided to serve the proposed development, and criterion xviii) of CS15 seeks to minimise the need to travel by car using the following hierarchy: walking, cycling, public transport, commercial vehicles and cars) thus improving air quality. The proposal is not considered to comply with policy CS15 as it does not ensure that an appropriate level of services, facilities and infrastructure are available to serve the proposed development, and does not minimise the need to travel by car.

9. Site Access, Parking and Highway Safety Considerations

- 9.1. The application includes the proposed relocation of the access to the other end of the frontage. Suffolk County Highways raise no objection, subject to conditions regarding the access. As such, the proposal appears acceptable in highway safety terms.

10. Design and Layout [Impact On Street Scene]

- 10.1. The submitted development comprises a two storey, 3 bedroom dwelling. It is to be sited in the centre of plot respecting front building line of Wood View. It would have a Suffolk vernacular style with red brick plinth, smooth painted render and clay plain tile roof.
- 10.2. The ridge height of the proposed dwelling is 7.0m which, when compared to Wood View, would have an overall height approximately 0.10m higher than the neighbouring property.
- 10.3. The design is considered to be satisfactory and does not appear cramped or over-development of the site. As such, the proposal is considered to accord with saved policy CN01 of the Local Plan.

11. Environmental Impacts - Trees, Ecology and Land Contamination

- 11.1. No objection has been raised to the proposal by Suffolk Wildlife Trust, subject to compliance with the ecological report submitted as part of the application.

12. Impact on Residential Amenity

- 12.1. The only neighbour is Wood View to the south-east. The proposed dwelling is more than 3m from the boundary with Wood View and is positioned 'side by side' with that property. Aspect is to front and rear and there are no openings proposed on the side elevation facing Wood View. It is not considered that the development would harm the amenity of the neighbours at Wood View.

13. CIL

- 13.1. The development would be liable for Community Infrastructure Levy contributions.
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14. Details of Financial Benefits / Implications (S155 Housing and Planning Act 2016)

14.1. Granting this development will result in the following financial benefits:

- New Homes Bonus
- Council Tax
- CIL

14.2. These are not material to the planning decision.

PART FOUR – CONCLUSION

15. Planning Balance

15.1. At the heart of the balancing exercise to be undertaken by decision makers is Section 38(6) of the Planning and Compulsory Purchase Act 2004; which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, that determination must be made in accordance with the plan unless material considerations indicate otherwise.

15.2. This application relates to a proposal for a new dwelling. An important consideration in determining this application is that Babergh does not currently have a five-year supply of deliverable housing sites. Paragraph 47 of the NPPF requires LPAs to identify a 5 year supply of specific deliverable housing sites. Paragraph 49 of the NPPF states that *'relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'*.

15.3 Paragraph 14 of the NPPF states:

"At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For decision-taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

– any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or – specific policies in this Framework indicate development should be restricted".

15.4 As such, the effect of paragraphs 47, 49 and 14 are that:

- the local authority should be able to identify a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements;
 - that where such a supply cannot be demonstrated, policies for the supply of housing should not be considered up-to-date, and;
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- where policies are not up-to-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole or where specific policies in this Framework indicate development should be restricted. Policy CS1 sets out a similar approach where relevant Core Strategy policies are out-of-date

15.5 Paragraph 55 of the NPPF advises that, in order to promote sustainable development, housing in rural areas should be located where it would enhance or maintain the vitality of rural communities. Furthermore, it provides that isolated new homes in the countryside should be avoided unless there are special circumstances.

15.6 The site is remote from the nearest settlements, namely the villages of Polstead and Boxford and the town of Hadleigh and the day to day shops and services they offer. Consequently, the occupiers of the new dwelling would be predominately reliant on the use of the private motor vehicle. Therefore, the site location would perform poorly in relation to NPPF paragraphs 17, 34 and 35 which seek to locate development to give priority to pedestrian, cycle and public transport movements. Nor would the location and reliance on use of the private car encourage future occupiers to support local businesses and facilities or help to maintain the vitality of the community.

15.7 The application fails to identify special circumstances to justify an isolated dwelling in the countryside, contrary to paragraph 55 of the NPPF. Moreover, the proposal would not be sustainably located, would not enable access to services, facilities and infrastructure and would not minimise the need to travel by car. Consequently, it would not accord with Policies CS1, CS2 and CS15 which seek to support sustainable development, or with the NPPF when taken as a whole. Therefore, whilst the proposal would make a modest contribution to the supply of housing and would deliver a limited and short term contribution to the economic role of sustainability through the construction activity, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal.

15.8 As such, the proposal would not amount to sustainable development and so is not supported by the presumption in favour of sustainable development set out in Framework paragraph 14 or Policy CS1.

16. Statement Required By Article 35 Of The Town And Country Planning (Development Management Procedure) Order 2015.

16.1 When determining planning applications, the Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to explain how in dealing with the application they have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application. In this case, the matters that have been found to be unacceptable are matters of principle which it is not considered could be resolved through amendments to the scheme. As such, the LPA did not engage with the applicant to seek amendments.

17. Identification of any Legal Implications of the decision

17.1 The application has been considered in respect of the current development plan policies and relevant planning legislation. Other legislation including the following have been considered in respect of the proposed development:

- Human Rights Act 1998
- The Equalities Act 2010

- Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
- Natural Environment and Rural Communities (NERC) Act 2006 (any rural site)
- The Conservation of Habitats and Species Regulations 2010
- Localism Act
- Consideration has been given to the provisions of Section 17 of the Crime and Disorder Act, 1998, in the assessment of this application but the proposal does not raise any significant issues.

RECOMMENDATION

That planning permission be refused for the following reasons:

1. In the absence of a five year land supply, the Council should consider the development against the three strands of sustainable development as set out in the National Planning Policy Framework (NPPF). This sets out a presumption in favour of sustainable development and, with respect of development in rural areas, states that housing should be located where it will enhance or maintain the vitality of rural communities and avoid new isolated homes unless there are special circumstances as set out under Paragraph 55.
 2. Policy CS2 of the Core Strategy sets out the District's settlement policy and states that most new development will be directed sequentially to the towns/urban areas, core villages and hinterland villages. The site of the proposed dwelling is in the countryside, outside of any town or village, and accordingly applications for residential development in the countryside will not normally be permitted and new housing will be integrated into existing settlements. Policy CS15, in line with the NPPF, requires all new development to demonstrate the principles of sustainable development as applied to the local context and states, inter alia, that an appropriate level of services, facilities and infrastructure are available to serve the development.
 3. The application fails to identify special circumstances to justify an isolated dwelling in the countryside, contrary to paragraph 55 of the NPPF. Moreover, the proposal would not be sustainably located, would not enable access to services, facilities and infrastructure and would not minimise the need to travel by car. Consequently, it would not accord with Policies CS1, CS2 and CS15 which seek to support sustainable development, or with the NPPF when taken as a whole. Therefore, whilst the proposal would make a modest contribution to the supply of housing and would deliver a limited and short term contribution to the economic role of sustainability through the construction activity, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal. As such, the proposal would not amount to sustainable development and so is not supported by the presumption in favour of sustainable development set out in Framework paragraph 14 or Policy CS1.
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