



Appendix 7

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| <b>PLANNING AND ACCESS COMMITTEE</b> |                                |
| <b>MEETING: NPA/PC/06/2014/04</b>    | <b>DATE: 29 September 2014</b> |

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| <b>REPORT No.</b>          | <b>NPA/PC/06/2014/04</b>   |
| <b>SUBMITTED BY:</b>       | <b>Director of Operations</b>  |
| <b>APPLICATION NUMBER:</b> | <b>2014/0171/DET</b>   |
| <b>APPLICANT:</b>          | <b>Dr Colin Mackenzie</b>  |
| <b>LOCATION:</b>           | <b>Land Adjacent To Riverview, Main Street, Killin</b>   |
| <b>PROPOSAL:</b>           | <b>Amendment to planning permission 2008/0288/DET for erection of dwellinghouse - revised design</b> |

|                                |  |
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| <b>NATIONAL PARK WARD:</b>     | Ward 2 (northern (central) area)   |
| <b>COMMUNITY COUNCIL AREA:</b> | Killin Community Council   |
| <b>CASE OFFICER:</b>           | Name: Catherine Stewart<br>Tel: 01389 727731<br>E-mail: catherine.stewart@lochlomond-trossachs.org |

**1 SUMMARY AND REASON FOR PRESENTATION**

- 1.1 This application is for a new house design, on the grounds of an existing chalet to the north of the Bridge of Dochart in Killin. Permission was granted at Committee in July 2009 for a new two storey house on this site. The applicant has now submitted a revised design. It is being reported to committee as the site is located within the 1:200 year flood risk zone and the application is subject to a formal objection from SEPA.
  
- 1.2 If Members are minded to approve the application, this would be contrary to the advice of SEPA, a statutory consultee, and would therefore be required to be referred to the Scottish Ministers, to determine whether they wish to 'call in' the application.

## 2 RECOMMENDATION

2.1

**That Members:**

1. Indicate to the Scottish Government that the Authority is minded to APPROVE the proposed development, subject to the imposition of the conditions contained in Appendix 1 of this report.

## 3 BACKGROUND

### *Site Description:*

- 3.1 The application site is located to the east of Main Street, Killin, within Killin Conservation Area. It is adjacent to the River Dochart, which is part of the River Tay Special Area of Conservation (SAC). To the south of the site lies the Bridge of Dochart, which is a Category 'A' listed building. Across a branch of the river is the island of Innes Bhuidhe, the burial ground of the MacNabs, which is a Scheduled Ancient Monument. A location plan can be found in Appendix 2 of this report.
- 3.2 The site is located to the south of the Capercaillie restaurant (named 'The Cottage' in Appendix 2), with a small chalet located in the northern corner. The site is highly visible from the key vantage point on the Bridge of Dochart, as well as from Main Street and the island opposite. It slopes steeply from the Main Street on the west to the River Dochart on the east. It is heavily vegetated as can be seen in photograph (2) in Appendix 3 of this report. There are a number of tall mature trees, smaller trees and bushes. A 'B' listed mill lade crosses the site, with a footbridge access between the chalet and the ground to the west. Access to the site is from the driveway which serves the Capercaillie restaurant. There is no vehicular access within the site, however there is room for parking one vehicle on a flat grassed area off the driveway, behind the stone wall boundary with Main Street.

### *Description of Proposal:*

- 3.3 It is proposed to demolish the existing chalet on the site and replace it with a single storey three bedroom building with timber cladding and a sedum roof. The building is to be located on a raised terrace with a stone filled gabion revetment which will form part of the underbuilding to the north, and a grassed terrace area to the south and west (toward the river). A gravel entrance path is to be created between the building and the gabion revetment to the north west of the proposed house.
- 3.4 The building is to have several large areas of glazing along the riverside elevation and a deep roof overhang. It is to have a simple dual pitched roof design with a shallow roof pitch. The building takes the form of two simple rectangles 'fused' together in a wide "V" plan, following the line of the river alongside the site – see Appendix 5 of this report for the Site Plan.
- 3.5 Several trees are to be removed to make space for the development, including three spruce trees, a prunus tree, willow and multi stem holly. A landscaping scheme is proposed including replacement planting.

- 3.6 Access to the site is to be unaltered, with no vehicular access proposed directly to the new house, but the one parking space close to the Main Road and adjacent to the Capercaillie restaurant driveway to be utilised as at present.

***Environmental Impact Assessment (EIA):***

- 3.7 For the purposes of the Environmental Impact Assessment (Scotland) Regulations 2011 the National Park is identified as a 'Sensitive Area'. As a 'Competent Body' the National Park Authority has a statutory duty to consider whether proposals for development should be subject to the EIA process. The proposal does not fall under any of the Schedules within the Regulations so it does not require to be screened for an EIA.

***Planning History:***

- 3.8 2008/0288/DET – "Erection of 2 storey dwellinghouse" approved on 27.07.2009 subject to conditions. This application was minded to be approved by the Planning and Access Committee and was referred to the Scottish Ministers as a direction to refuse planning permission on flooding grounds was received from SEPA. Scottish Ministers did not intervene in the planning application and it was approved subject to conditions, as determined at the Planning Committee in July 2009.

2007/0062/DET – "Erection of dwellinghouse" refused on 22.08.2007 at Planning Committee following a site visit, for reasons relating to impact of the proposed dwelling on the character and appearance of the conservation area, the design of the building and the impact of the resultant engineering operations, and flooding. An appeal against this refusal was lodged, but was subsequently withdrawn before a decision could be issued.

**4 CONSULTATIONS AND REPRESENTATIONS**

***Responses to Consultations:***

4.1 Killin Community Council

At the time of preparing this report no response has been received.

4.2 West Of Scotland Archaeology Service (Glasgow)

There are a number of features of archaeological significance which have been recorded in the immediate vicinity of the plot of ground that have been flagged with potential to be affected by the proposal. The most significant of these are the remains of two prehistoric forts which survive as a series of earthworks on Innes Bhuidhe, both of which are legally-protected as scheduled monuments. It appears unlikely that the house proposed under the current application would result in a significant additional detrimental impact on the setting of the two scheduled monuments. Although the new structure would be significantly larger than the cabin that currently occupies the plot, mature trees present on both the island and the shore will provide a degree of screening, albeit that the effectiveness of this will vary according to the season. However, the main reason for assessing that the setting impact of the new structure is likely to be limited is that substantial modern buildings are already present further along Killin Main Street. These will already be visible in views out from the scheduled forts, suggesting that the additional impact of the larger structure proposed on the site of the log cabin is unlikely to be of sufficient magnitude as to raise a major concern.

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Another feature of the historic environment is within the plot itself, this being elements of a system of mill lades, which served mills on the northern bank of the river, downstream of Dochart Bridge. Condition 10 of the previous consent (ref 2008/0288 – see section 3.8 above), which required a standing building survey should be attached to any new consent as this would ensure that there was an appropriately detailed record of the lade system, to provide a degree of security against the possibility of it being damaged, removed or infilled as a result of construction activities.

The previous consent also contained a condition requiring an archaeological watching brief and this should be imposed to ensure that any significant sub-surface archaeological deposits that may be exposed by construction activity would be suitably excavated and recorded, prior to being removed.

### 4.3 Scottish Water (Glasgow)

No response received.

### 4.4 Stirling Council Flood Prevention

No comments to make on this application given it is stated that the footprint of the building and the FFLs will not differ from the previously approved plan.

### 4.5 Scottish Environmental Protection Agency (East Kilbride)

24.07.2014

SEPA object to the proposed development on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy and PAN 69.

The submitted flood risk assessment report has not been updated to take account of SEPA's previous comments and recommendations. The recommendation of that report was that the footprint of the proposed house should be relocated to higher ground at 120.0 mAOD or higher. SEPA believes that the current proposed location of the dwellinghouse would leave it vulnerable to serious damage should the design flood occur during its lifetime and advise that it may not be insurable. SEPA therefore agrees with the recommendation of the consultants to relocate the building to higher ground outwith the functional floodplain and strongly advises that the applicant consider an alternative higher location on the site for this dwellinghouse.

SEPA also highlight that to conform to planning policy any landraising, as proposed on this site, should be linked to the provision of compensatory flood storage. No compensatory storage has been proposed in this instance. Also the threat of flooding from the lade has not been fully investigated at this site and the single access and egress point requires crossing over this hazard.

08.09.2014

A further letter from SEPA was received in relation to correspondence from the agent. This reiterates that SEPA believe that there is a significant risk of flooding to the site of the proposed dwellinghouse which will place the proposed dwellinghouse and its occupants at risk. SEPA continue to recommend that the dwellinghouse is moved to a part of the site that is at or above an existing level of 120.0 mAOD as recommended by the applicants own consultant.

### ***Representations Received:***

4.6 At the date of the preparation of this report no representations had been received.

## 5 POLICY CONTEXT

### ***National Park Aims:***

- 5.1 The four statutory aims of the National Park are a material planning consideration. These are set out in Section 1 of the National Parks (Scotland) Act 2000 and are:
- (a) to conserve and enhance the natural and cultural heritage of the area;
  - (b) to promote sustainable use of the natural resources of the area;
  - (c) to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
  - (d) to promote sustainable economic and social development of the area's communities.
- 5.2 Section 9 of the Act then states that these aims should be achieved collectively. However, if in relation to any matter it appears to the National Park Authority that there is a conflict between the first aim, and the other National Park aims, greater weight must be given to the conservation and enhancement of the natural and cultural heritage of the area.

### ***Development Plan:***

- 5.3 National Park Local Plan (Adopted 2011): Relevant Policies:

NP1 Development in the National Park  
HOUS1 New Housing Development in Settlements  
TRAN6 Parking Provision  
L1 Conserving and Enhancing the Diversity and Quality of the Park's Landscapes  
D1 Design Quality  
SUSDEV1 Sustainable Development  
ENV1 European Sites (SACs and SPAs)  
ENV4 Legally Protected Species  
ENV9 Development Impacts on Trees and Woodlands  
ENV10 Protecting the Water Environment  
ENV12 Surface Water Drainage  
ENV16 Development in Medium to High Flood Risk Areas  
ENV20 Conservation Areas  
ENV21 Listed Buildings  
ENV25 Scheduled Ancient Monuments and Candidate Scheduled Ancient Monuments  
ENV27 Sites with Unknown Archaeological potential

SPG on Sustainable Design

Full details of the policies can be viewed at:

<http://www.lochlomond-trossachs.org/planning/adopted-local-plan/menu-id-904.html>

### ***Other Material Considerations:***

#### National Park Partnership Plan (2012-2017)

- 5.4 All planning decisions within the National Park require to be guided by the policies of the Partnership Plan, where they are considered to be material, in order to ensure that they are consistent with the Park's statutory aims. In this respect the following policies are relevant:
- Con Policy 1: Conservation (Sandford) Principle
  - Con Policy 2: Natural Heritage

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Con Policy 3: Landscapes  
Con Policy 4: Water  
Con Policy 6: Cultural Heritage  
RD Policy 7: Sustainable Design and Construction

### 6 SUMMARY OF SUPPORTING INFORMATION

- 6.1 The agent submitted an otter survey, Planning and design statement, photomontages of the proposed development and the Flood Risk Assessment (dated June 2008) with the application.
- 6.2 The Planning and design statement covers the evolution of the design through pre-application enquiries in 2012 and 2013. It highlights the passive house design including an airtight building design with mechanical extract ventilation and proposed ground source heating. It concludes that the final design:
- Fits the site
  - Is unobtrusive achieving the requirement of planning officers to be lower in overall height than the previously approved design
  - Reduces the risk from flooding from a 1:200 flood by maintaining the same ground floor level as the previously approved house of 120.0m AOD
  - Is a simple, elegant and sustainable design
  - Features a 'green' sedum covered roof helping to integrate it into its landscape setting
  - Maintains the natural landscape character of the riverbank site
- 6.3 A letter dated 29<sup>th</sup> July 2014 was received from the agent seeking to address the points raised in SEPA's letter of objection. This included a copy of an email from Lucas Fettes & Partners (Insurance Brokers) indicating that cover could be arranged for the property on a Full Perils basis including Flood, with no special restrictions.
- 6.4 Following a meeting between the agent and National Park staff (including the planning case officer, landscape adviser and the tree officer) a further letter dated 28<sup>th</sup> August 2014 and associated revised plans were received from the agent seeking to address a further information request from the planning case officer on 8<sup>th</sup> August 2014, namely:
- a) information on the proposed method of construction, to minimise damage to tree routes through compaction and mechanical damage;
  - b) further information on trees to be retained on site;
  - c) information on the height of proposed crown lifts;
  - d) more detail on the landscaping proposed.
- Two Spruce trees were identified to be very close to the proposed house and within the Root Protection Zone (RPZ). Revised plans were submitted showing the removal of these trees and their replacement with Scots Pine elsewhere on the site. Plans showing site clearance work and tree removal and a site construction works plan were also submitted. Other plans were revised to show changes as a result of additional tree removal.
- 6.5 A letter dated 8<sup>th</sup> September 2014 and associated revised plans were received from the agent addressing further points raised by the tree officer and showing proposed landscaping works.
- 6.6 An email from the agent dated 5<sup>th</sup> September 2014 with attached drawings/schedules No.s 33/015 and 33/016 Landscaping Works – Seeding Works and Maintenance Operations and Landscaping Works – Planting Schedule and Maintenance Operations.

- 6.7 An email from the agent dated 11<sup>th</sup> September 2014 with attached drawings indicating how the construction would take place without any building debris entering the watercourse.

## 7 PLANNING ASSESSMENT

- 7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, requires that: *“Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan”*.

The key planning issues are:

- Principle of housing at this location
- Impact on Trees
- Design and impact on Killin Outstanding Conservation Area
- Protected Species
- Special Area of Conservation
- Archaeology
- Flooding

Each of these will be considered in turn below.

### Principle of housing

- 7.2 Local Plan policy HOUS1 supports new housing on appropriate housing sites within settlement boundaries. The site is located within Killin settlement boundary, however it lies within the 1:200 year flood zone. Assessment of flood risk will be considered further below. The principle of a house on the site has been established through recent planning history. This is an application for an amendment to planning permission (ref: 2008/0288/DET) which was extant at the time this application was submitted in July 2014. The previous approval of a 2 storey dwellinghouse is therefore a material consideration which should be given considerable weight in terms of any subsequent application as this establishes the principle that a suitably sited and designed dwellinghouse is acceptable on the site.

### Impact on Trees

- 7.3 As described in section 3.2 above the site is heavily vegetated with a number of mature and semi-mature trees. These tall trees make a positive contribution to the setting of the listed bridge and to the Conservation Area. Several trees were proposed to be removed to make way for the house and, through the application process, a further two trees which were likely to be adversely affected by the development are now also to be removed, with compensatory planting proposed. In terms of the view from the bridge, the tall pine tree to the south of the site is to be unaffected by the development (see Appendix 3 photograph (2)). To the south west of the existing chalet, three spruce trees are to be removed, together with a willow tree and multi-stem holly. To the north east of the chalet a prunus tree is to be removed. The spruce trees to the north of the lade are to be retained and would be unaffected by the development. To the west of the site, near the driveway, a beech tree and spruce tree are to be retained.
- 7.4 Following a request for further information on the construction methods a drawing giving full details was submitted. The LLTNPA tree officer is satisfied that adequate steps to protect trees are to be implemented. He has requested a further condition on the consent to cover the situation where, if further mature trees are lost from the site, they would be replaced.

7.5 In addition a detailed landscaping scheme has been proposed together with planting schedules, taking on board feedback from both the LLTNPA tree officer and landscape adviser. The scheme was amended to include new Scots Pine trees as well as other species to be planted along the riparian edge. The replacement of trees to be removed and the enhancement of the site itself with additional planting is paramount to the successful integration of this development into this site. It is therefore proposed that a condition be placed on the consent for the implementation of this landscaping scheme within a specified timescale and that, where trees die or are removed within 5 years, they are replaced with species to be agreed with the planning authority.

7.6 It is noted that most of the mature trees to be removed would have been felled as part of the previously proposed development on the site.

*Design and impact on Killin Outstanding Conservation Area*

7.7 There are two aspects to consider in terms of the impact of the design on the Killin Conservation Area – firstly the design of the house itself and secondly the development as a whole, including the removal of trees, compensatory planting and additional landscaping and the affect on the character and appearance of the Conservation Area.

***House design***

7.8 The Planning and Design Statement submitted by the applicant details the pre-application discussions which took place with the planning authority between 2012 and 2014. This explains how the current siting, layout and design took shape and was amended in response to feedback from the planning authority. The proposals now take the form of a single storey building with:

- filled gabions, combined with ground contouring, to reduce visual impact of underbuilding
- larch boarding as the main external material, together with large glazed panels
- a narrow plan and cross section
- an overhanging roof with shallow pitch sedum roof
- a simple form which is long and ‘turns’ in response to the site creating two ‘wings’/internal spaces – one closest to the bridge with living/dining space “living area” and one closer to the site of the existing chalet with “sleeping” accommodation.

7.9 The site is heavily constrained with the location of the river to the east and the lade cutting through the site to the west, as well as the location of mature trees which contribute to the river setting and the Conservation Area. The site is located close to the Falls of Dochart Bridge, an iconic viewpoint within the National Park. This is therefore a very sensitive site from a visual point of view. The proposed house must blend into the site and not detract attention from its scenic setting. In order to accord with local plan policy, development must “preserve or enhance the character and appearance of the Conservation Area”.

7.10 It is considered that the design has been developed in order to minimise the visual impact of the house within the site (see Appendix 4 for Photomontages of the site – although it should be noted that these include more trees than are now proposed for retention). The platform for the building will reduce the visible appearance of underbuilding to meet the applicant’s required minimum floor level of 120 mAOD, the same as in the previously approved house. Also the use of a palette of different materials: from stone filled gabions, grass embankment, larch cladding and the sedum roof, together break up the mass of the building and disguise the height of the building, which overall is less than the previously approved two storey building. The overall ridge height of the redesigned house is to be 123.97 mAOD, with 127 mAOD (and 128 mAOD for the stairwell tower) for the previous approved house. The gross



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internal floor area is to be 143.5 m<sup>2</sup> compared with 276.0m<sup>2</sup> for the previous house.

- 7.11 The house has been designed in keeping with the principles set out in the Supplementary Planning Guidance (SPG) on Sustainable Design. It is a contemporary design, formulated to integrate as best as possible with the site – particularly by the ‘V’-shape plan following the river and by the choice of materials, selected to reflect and blend in with the dense vegetation across the site with larch cladding and a green sedum roof. The Design and Planning statement submitted by the applicant also sets out the proposed sustainable design elements, including a passive house design and renewable heating source.
- 7.12 In summary it is considered that the house is of a high quality design which has been developed to integrate with the site, in accordance with local plan policy D1 and the SPG on Sustainable Design.

### ***Conservation Area impact***

- 7.13 The loss of trees on this site, particularly the mature conifer trees will have a negative landscape and visual impact. However, as noted above, the trees (and possibly further trees), would have been lost in the previously approved scheme, which additionally included a driveway and double garage within the site, whereas the proposed scheme has no vehicular access to the house. The proposed compensatory planting and landscaping scheme is considered to contribute effectively to the re-establishment of the site over the longer term, particularly with the addition of a Scots Pine and other species along the riparian edge. Further information from the applicant has given confidence that adequate steps for tree protection during construction have been considered. Also the plans show that trees to the north, providing a backdrop to the house, are to be retained and the large pine to the south is also to be unaffected. As many trees as possible have been sought to be retained. The site will quickly regenerate post construction as demonstrated from vegetation removal prior to the last application in 2008 to improve sight lines across the bridge. The site has ‘greened-up’ quickly and is once again covered in dense vegetation and self-seeded trees.
- 7.14 It is therefore considered that the impact of the development, although requiring the removal of trees which contribute positively to the Conservation Area, would be balanced by the high quality design of the proposed house and the adequate levels of compensatory planting and proposed landscaping which would, in the longer term, enhance the Conservation Area. The proposal therefore complies with local plan policy ENV20 Conservation Areas.

### ***Protected Species***

- 7.15 As described above the development proposed involves the removal of trees and therefore consideration was given to whether a bat survey would be required. The species proposed for removal would be unsuitable habitat for bats and therefore a bat survey was not requested.
- 7.16 The site is located adjacent to the River Dochart and an otter survey was therefore requested through the pre-application process. The otter survey submitted indicates that there is a lying up area 32 metres from the development footprint and a holt over 100 metres away. A Species Protection Plan condition should be placed on the consent, ensuring (for example) that pipes are capped and no ditches are left open at night.

### ***Special Area of Conservation***

- 7.17 The River Dochart forms part of the River Tay Special Area of Conservation (SAC). The Conservation Objectives for the River Tay SAC are to avoid deterioration of the habitats of the qualifying species (including otter, lamprey, and salmon) or significant disturbance to the

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qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features.

- 7.18 A Habitat Regulation Appraisal (HRA) was required as the proposal could have an effect on the SAC through additional sedimentation from building debris and excavated materials entering the watercourse. The HRA concluded that, in view of the mitigation measures proposed to ensure no accidental sedimentation of the watercourse, the proposal would not have an adverse affect on the integrity of the site.

### Archaeology

- 7.19 The consultation response from WOSAS (see section 4.2 above) explains that the impact of the proposed development on the nearby Scheduled Ancient Monuments is likely to be negligible. It also states that the archaeology conditions proposed for the previous consent should be applied – including a standing survey of the lade and an archaeological watching brief.

### Flooding

- 7.20 SEPA have objected to the proposed development on flood risk grounds (see section 4.5 above). It is noted again that the approval of the previous application for a house on the site was contrary to SEPA's advice on flood risk and this approval is a material consideration which must be given considerable weight in the determination of his proposal. This scheme is for a finished floor level (FFL) the same as that previously proposed and for this reason Stirling Council Flooding team have not objected. Concerns raised about flood risk have been countered by the applicant. He has provided evidence that he will be able to insure the proposed house (see section 6.3 above).
- 7.21 It is noted in SEPA's response that they suggest that the house is built on land elsewhere within the site at 120.0m AOD. Due to the shape and topography of the site there is insufficient land of this height and above to accommodate a dwellinghouse. It is also noted in SEPA's response that no compensatory storage is to be provided as part of this scheme which includes landraising. The previously approved scheme also included substantial landraising and did not include any compensatory storage. Again there is insufficient land to do so.
- 7.22 It is concluded that the proposal is not significantly different to the approved scheme in terms of flood risk. This is a relevant material consideration and on this basis flood risk should not be a reason for refusal.

## **8 CONCLUSION**

- 8.1 The principle of a house on this site has been established through the previous approval, a factor which must be given substantial weight in considering this application. Trees lost as part of this proposed development would have been lost as part of the previous consent if it had been implemented. The house proposed is of a high quality design and complies with local plan policy D1 and the SPG on Sustainable Design. Although there will be a short term negative impact during construction, the proposed compensatory and mitigatory planting, together with the high quality designed house replacing the dilapidated chalet building, will overall enhance the Conservation Area.
- 8.2 There are no concerns about the impact of the development on protected species. Impact

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on the SAC has been adequately covered through proposed mitigation techniques to prevent sediment entering the watercourse. Archaeology conditions from the previous consent should also be applied.

- 8.3 Flood risk to the proposed development is not significantly different to the approved scheme. It is therefore recommended that planning permission be granted subject to conditions.

**Background** <http://www.lochlomond-trossachs.org/planning/>

**Documents:** Click on view applications, accept the terms and conditions then enter the search criteria as "2014/0171/DET".

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