

## COMMITTEE REPORT

**Committee:** East Area  
**Date:** 8 May 2008

**Ward:** Fulford  
**Parish:** Fulford Parish Council

**Reference:** 08/00180/FUL  
**Application at:** Land To The Rear Of 85 Main Street Fulford York  
**For:** Erection of two storey three bedroom dwelling after demolition of existing outbuilding  
**By:** Mr S J Melley  
**Application Type:** Full Application  
**Target Date:** 25 March 2008

### 1.0 PROPOSAL

1.1 The application relates to a site measuring 0.019 hectares in an area located to the rear of properties fronting Main Street, Fulford. The site comprises of a 1 1/2 storey traditional agricultural outbuilding constructed of red brick with a red rosemary tiled roof (112 cubic metres). A garage door is located at the western gable end of the building with a doorway in the northern elevation. The building is located within a courtyard and is bounded by a small curtilage garden to the north and east of the building and surrounded by a 1.8 metre high close boarded fence, with car parking areas to the west of the building. Access to the site is off Main Street through an existing underpass, which currently serves two other properties 83 and 83a Main Street, as 81 and 85 both have a frontage with Main Street. It should also be noted that a certificate of lawfulness for a three bedroom dwelling on land opposite the site, to the rear of 83a Main Street, was granted in March 2007. 81 and 85 Main Street were formally a hotel, which is now a two bedroom cottage and 8 separate rooms let on a long term basis. To the east of the site is a modern residential bungalow.

1.2 This application seeks planning approval for the erection of a two storey, three bedroom dwelling following the demolition of the existing outbuilding. The outbuilding does not require Conservation Area consent for demolition as it falls beneath the 115 cubic metre threshold. The measurements provided by the agent have been checked on site by the Planning and Conservation Officers and have been found to be correct.

1.3 The application site is located within the Fulford Conservation Area.

1.4 Amended plans were submitted by the agent following the receipt of comments from the Conservation Officer. Amendments were made to the design and materials of the proposed dwelling, and the boundary treatment to the car parking and front garden area were reduced in height to 1 metre and 1.6 metres respectively.

1.5 The application is brought to Committee at the request of Councillor Aspden, who has raised the following concerns in respect of the application:

a) the proposed buildings, by scale and mass, will harm the views from Main Street and the courtyard and therefore not enhance or maintain the character of the Conservation Area.

- b) Loss of trees and vegetation in the area harming the character and amenity of Fulford.
- c) That the agricultural building should be measured independently to see if consent to demolish is required.
- d) The development would result in five separate properties being within the back garden of 81/85 Main Street. The car parking, with a dangerous access of less than 2.5 metres is already well used by the letting bedroom property already fronting Main Street.
- e) This will be an overdevelopment of the existing site and within this busy area of Fulford.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

Conservation Area Fulford 0041

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

### 2.2 Policies:

CYGP1  
Design

CYH4A  
Housing Windfalls

CYHE2  
Development in historic locations

CYHE3  
Conservation Areas

## **3.0 CONSULTATIONS**

### 3.1 Internal

Urban Design and Conservation

The Conservation Area Character Statement for Fulford makes references to the areas behind the frontage of Main Street being an integral part of the village being based upon medieval back lanes now known as Fenwicks Lane and School Lane. The loss of the out building is unfortunate; it is an attractive small building which indicates a former use of the land. It would appear, however, that the size of the building prevents control over its demolition. The existing physical character of this back land area is a mix of historic and contemporary development. Both 81 and 85 Main Street have been extended to the rear to provide additional accommodation in a linear form. A contemporary bungalow lies to the rear of the site but is screened

and only partially visible. These developments are of an undistinguished design. A lawful development certificate was recently granted for an additional dwelling at the rear of 83a Main Street effectively creating a rear terrace. The back land area is surrounded by residential dwellings and gardens. Boundary treatments are largely in the form of fencing and soft landscaping. The dwelling itself appears to lie within the boundary of the existing outbuilding plot, the creation of the two car parking spaces would appear to enlarge the existing boundary and encroach upon the back land area. The character and design of the proposed dwelling also seems at odds with the general character of the area, being detached with a recessed entrance on columns. The entrance seems very formal and generally out of keeping with the existing properties and the domestic architecture of Fulford. Render has been used for the upper central bay. There is render at 83a though it is felt that the dwelling would be less intrusive if the treatment of this area is brick. The treatment of the front elevation does not reflect the character of this backland area and should be simplified. A house within the confines of the existing garden maybe acceptable subject to design changes.

### Highways

The access to and from Main Street is particularly narrow with poor visibility for pedestrians, however it is likely that the volume of traffic entering the site will decrease due to the hotel no longer being in operation. The site is also on a route to the city centre with good bus links including the Designer Outlet Park and Ride. Details of turning on site are required in order for vehicles to enter and leave in a forward position and cycle storage details are also required. Highways were asked if their view on the application would alter in light of the Certificate of Lawfulness for an additional dwelling granted in 2007 and they have confirmed that their view remains the same.

### Drainage

The development is in low risk Flood Zone 1 and should not suffer from river flooding. No objections in principle. As the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, carried out in winter, to prove that the ground has sufficient capacity to accept surface water drainage and to prevent flooding of the surrounding land and the site itself.

### Lifelong Learning & Leisure

As there is no on-site public open space, commuted sums should be paid to the Council for amenity space, play space and sports pitches.

### Environmental Protection

No objections. Please include informative relating to control of pollution.

3.2 External  
Yorkshire Water  
Response awaited.

Fulford Parish Council

Object to the application on the grounds of overdevelopment; parking and access and; harm to the Conservation Area;

An extant permission exists for a separate dwelling to the east of no.83 which is not shown on the plans and makes assessing the proposal difficult. This additional dwelling will result in 5 properties set in the back garden of 81/85 Main Street leaving insufficient amenity space for the existing dwellings. One of the properties has 8 letting bedrooms with a further 2 in the former owners cottage and therefore the existing space is currently well used for parking/turning of vehicles. The only access is via an archway less than 2.5 metres in width and little more than 2 metres in height and is substandard in terms of access for emergency vehicles. The vehicular access is also highly dangerous by virtue of its narrow width and the very poor visibility splays of the arch, which directly abuts the footpath on Main Street. When vehicles exit through the arch there is absolutely no visibility of approaching pedestrians or cyclists. We note that the highways department have not objected to the proposal but we do not agree with their assertion that usage will decrease following development. We request that highway officers actually visit the site in order to assess the present and future parking arrangements (taking into account the extant permission) and the suitability of the access for increased usage and emergency access.

The proposed two storey dwelling will be visible to pedestrians passing along Main Street. The current courtyard arrangement viewed through the archway is attractive and in keeping with the character of the Conservation Area and provides a relatively open view towards the east. The existing former agricultural building is a characteristic rural feature, which sits comfortably in the courtyard. The proposed new dwelling, by virtue of its scale, massing and poor design will harm the view and will not enhance or maintain the character of the Conservation Area, contrary to National and Local Planning Guidance. It will further fill in a courtyard, which already has extant permission for a dwelling to the rear of no.83. The resultant density of development will harm the historic rural environment of Fulford village Conservation Area. In addition there will be further loss of trees and vegetation, which currently contributes to the character and amenity of Fulford. We note that the applicant has not deemed it necessary to apply for consent to demolish the agricultural building because it is less than 115 cubic metres in volume. However, the volume is only 3 cubic metres less than this threshold (as calculated by the applicant) and we would request that the dimensions of the building be measured independently to ensure accuracy. We believe there would be very good reason to object to any proposal to demolish this outbuilding if consent was considered necessary.

#### Public Representations

Four letters of objection have been received from local residents, objecting to the application on the following grounds;

- a) This application should be considered in light of the Certificate of Lawfulness for a three bedroom dwelling to the rear of 83a, which was granted in 2007.
- b) The former hotel at 81 and 85 Main Street is currently being let as a 2 bedroom cottage and 8 individual letting bedrooms which has resulted in an increase in the number of cars using the access and parking in the rear courtyard. The proposed

dwelling would lead to an increase in the use of this access and levels of car parking, which would lead to parking on Main Street and be detrimental to highway safety.

c) The drainage / sewerage system does not have the capacity to support additional dwellings, the system backs up on a regular basis and has led to sewerage in the car parking area.

d) The proposed dwelling would result in overlooking, overshadowing/loss of light and affect residential outlook.

e) Noise and disruption during construction.

f) Impact on boundary wall and third party access, outbuildings and trees.

g) Impact on property values

h) High density of development which would lead to overcrowding and be out of character with the Conservation Area

## **4.0 APPRAISAL**

### **4.1 Key Issues**

- Policy Context
- Residential Use
- Character and Amenity of Local Environment
- Affect on Fulford Conservation Area
- Residential Amenity
- Access, Parking and Highway Safety
- Drainage
- Public open space

### **4.2 Policy Context**

The site is located within the Fulford Conservation Area and is unallocated on the City of York Draft Local Plan. In addition to the policies contained within the Local Plan, Planning Policy Statement 1: Delivering Sustainable Principles; Planning Policy Statement 3: Housing and; Planning Policy Guidance Note 15: Planning and the Historic Environment set out National Planning Policy and are of relevance. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard to the desirability of preserving or enhancing the character and appearance of the Conservation Area.

### **4.3 Residential Use**

The application site is unallocated on the Local Plan and the future use of the site has not therefore been prescribed. The site is classed as previously developed land as defined in PPS3 as it is land occupied by a permanent structure and includes the curtilage of the developed land. The site is located within the village of Fulford close to local amenities and on a main bus route serving both York and Selby. The site is surrounded by existing residential properties and it is considered that the re-use of the site for residential is acceptable in principle.

### **4.4 Character and Amenity of Local Environment**

In addition to the general advice contained within PPS1 and Policy GP1, Policy H4a specifically relates to proposals for residential development on land not already allocated on the proposals map. It supports such development where; a) the site is within the urban area and is vacant, derelict or underused or it involves infilling,

redevelopment or conversion of existing buildings; b) the site has good accessibility to jobs, shops and services by non car modes AND c) it is of an appropriate scale and density to surrounding development, and it would not have a detrimental impact on existing landscaping features.

The application site is within the urban area and the existing building on site is in poor condition. The site has good accessibility to the village facilities and public transport links. In terms of the size of the building, whilst the footprint and scale of the dwelling is larger than the existing outbuilding on the site, it is considered that the building is appropriate in terms of scale and density in relation to surrounding buildings. The proposal will involve the loss of a semi mature tree, which is considered to have little amenity value. The existing garden area to the east of the site is to remain and a condition requiring a landscaping scheme, including tree planting will be attached to any approval.

#### 4.5 Affect on Fulford Conservation Area

The site is located within the Fulford Conservation Area. The proposal will involve the demolition of an existing 1 1/2 storey agricultural building, which is under 115 cubic metres in volume and does not therefore require Conservation Area consent to be demolished. The measurements provided by the agent have been checked on site by the Planning and Conservation Officers and have been found to be correct. Given that Conservation Area consent is not required for the demolition of this building, whilst its loss is regrettable, it is not a material consideration in the determination of this planning application for a two storey dwelling.

Following consultation with the Conservation Officer, no objections were raised in principle to the erection of a dwelling on this site, within the confines of the existing garden, subject to design changes. The site is located to the rear of properties fronting Main Street and views of the site will be strictly limited to glimpses through the existing underpass. Both 81 and 85 Main Street have previously been extended to the rear and comprise of a mix of modern designs and construction materials, which do not necessary reflect the general character and appearance of the wider Conservation Area. Furthermore the design and appearance of the single storey bungalow to the north east of the site and the dwelling granted a certificate of lawfulness to the immediate north of the site has / will alter the form and character of the original garden / courtyard.

The design of the proposed dwelling has been simplified to reflect the nature and form of the existing out building and the render removed. Conditions will be attached to any approval relating to materials, sample panels and window and door details in order to control the specific construction materials of the dwelling. The existing garden area to the east of the site is to be retained as private outdoor amenity space with the existing car parking area to the west of the building formally laid out to provide two off street car parking spaces for the proposed building. A 1 metre high fence is proposed to the west of the car parking area to delineate it from the rest of the courtyard whilst still retaining an open feel. A 1.6 metre high fence is located to the front of the property to screen the front elevation from the access to 83 Main Street and the windows in the front elevation of the proposed dwelling to the rear of 83A Main Street. Whilst a semi mature tree will require removal, it is of little amenity

value and a condition is recommended to replace the tree within the proposed garden area.

It is considered that the revised dwelling is of a simple design, it will be constructed of brick and tile to reflect the materials of the existing building and will be positioned within the existing curtilage. As a result it is considered that the character and appearance of the existing Conservation Area will be preserved.

#### 4.6 Residential Amenity

The proposed dwelling will be located 8 - 10 metres from the front elevation of the dwelling which was granted a certificate of lawfulness in 2007 (to the rear of 83a Main Street). The western elevation will be 12 metres to the rear elevation of 85 Main Street. The north eastern corner of the dwelling would be 15 metres from the corner of 83 Main Street. The southern elevation of the site will be 1.5 metres from the southern boundary with the rear garden area of 87 Main Street.

The internal layout and fenestration of the building has been carefully designed to prevent any unacceptable levels of overlooking. Ground and first floor windows are located in the eastern and western elevations of the property, which will overlook the garden and car parking areas. Whilst the first floor bedroom windows will be 12 metres from the rear elevation of 85 Main Street this is not considered to give rise to unacceptable loss of amenity to the occupiers of this property. A 1.6 metre high fence will screen the ground floor windows in the northern elevation of the property. The first floor windows in the northern and southern elevations of the property will serve non-habitable rooms and will be obscure glazed.

The building has been positioned in such a way that there is adequate space between the existing and proposed dwellings so as not to result in overshadowing of habitable room windows. The building will be located to the north of the garden area to 87 Main Street so there will be no direct loss of light to this garden area.

In terms of noise and disturbance from the site during construction, an informative is to be attached to any approval outlining the requirements of the Control of Pollution Act. A condition could be attached to control the hours of construction. This should minimise any unacceptable levels of noise and disturbance to surrounding residents.

The issue of third party access and damage to property are matters to be resolved between individual landowners and carry little weight in the determination of this application.

#### 4.7 Access, Parking and Highway Safety

The site will be accessed off Main Street through an underpass between 81 and 85 Main Street. Following consultation with Highways they accept that the proposed access is substandard in terms of width and pedestrian visibility but note that the former hotel has ceased trading, therefore they consider that the use of the access off Main Street will not be intensified and subject to the provision of internal turning, off street car and cycle parking they raise no objections to the proposal on highway safety grounds. The proposal includes 2 off street car parking spaces and there is space within the courtyard for vehicles to turn to they can enter and exit the site in a

forward gear. There is also scope within the private rear garden area to provide secure and covered cycle storage, which will be a condition of any approval.

It is noted that whilst 81 and 85 is no longer in use as a traditional hotel it is now a two bedroom cottage with 8 separate letting rooms. Following discussions with the agent, he advises that the applicants intend to submit an application in the future for a change of use of the hotel premises to two residential units. Whilst changing the use of these premises cannot be a condition of this approval, a "Grampian" condition can be attached to this approval preventing the commencement of the development until the hotel use (including the long term letting of bedrooms) has permanently ceased.

#### 4.8 Drainage

In terms of flooding the site is located in low risk Flood Zone 1 and should not suffer from flooding. With regards to surface water drainage, soakaways are proposed and a condition will be attached to any approval requiring tests to be carried out in winter to establish that the ground has sufficient capacity to accept surface water drainage and prevent flooding. With regards to foul sewage disposal, local residents have raised concerns that the existing sewerage system needs regular unblocking and there have been instances when the courtyard has contained raw sewage. Following discussions with the Council's Drainage Department they advise that if the sewage system is public the applicants have the right to discharge into the system and if the system is private the maintenance of the pipe work rests with the private individuals who discharge into it. As a result it is considered that foul can be discharged from the site, albeit following maintenance of the existing system.

#### 4.9 Sustainability

The applicant has taken account of sustainability considerations and considers that the development satisfies the relevant criteria of Policy GP4a of the Local Plan. The application site is readily accessible by various transport modes. There is an intensive bus service on the A19 corridor linking with the city centre, designer outlet and other destinations. Additionally, it is within reasonable walking and cycling distance of employment, services and facilities. There is also a range of local shops, food outlets, public houses etc in the immediate vicinity of the site. The design is considered to be of a high quality which succeeds in preserving and enhancing the character and appearance of the locality.

Wherever practicable, recycled clamp bricks and tiles will be used, including materials salvaged from the building to be demolished. In addition to complying with the Building Regulations, measures such as rainwater collection and installation of heat exchangers are firm objectives. An outdoor storage facility for recycling/refuse bins will be provided, details of which can be controlled by planning condition.

A condition requiring the developer to submit a detailed sustainability statement showing that the development would achieve an Ecohomes "Very Good" rating or the equivalent standard under the Code for Sustainable Homes is recommended.



#### 4.10 Public Open Space

Local Plan Policy L1c requires the payment of a commuted sum towards public open space for all residential developments of less than 10 units where there is no on-site provision. This three bedroom unit would generate a sum of £2124.

#### 4.11 Other Issues

The impact on the development on property values carries little weight in the determination of this planning application.

### 5.0 CONCLUSION

5.1 The application is recommended for approval, subject to conditions.

### COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out only in accordance with the following plans:-

Location plan 1:1000 and site plan 1:500 received on 28.01.08

Plans as Proposed 679/1B and Elevations as Proposed 679/2B received on 22.04.08

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 VISQ8 Samples of exterior materials to be app

4 VISQ7 Sample panel ext materials to be approv

5 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

Windows, doors and surrounds.

Reason: So that the Local Planning Authority may be satisfied with these details.

6 Details of all means of enclosure to the site boundaries including the new wall to the existing shed on the southern boundary shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities of the area.

7 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs within the site. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

8 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details. As the proposed method of surface water disposal is via soakaways these should be shown through an appropriate assessment carried out under BRE Digest 365 and carried out in winter to prove that the ground has sufficient capacity to accept surface water discharge and to prevent flooding of the surrounding land and the site itself.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.

9 HWAY18 Cycle parking details to be agreed

10 HWAY21 Internal turning areas to be provided

11 Prior to the development coming into use, all areas to be used by vehicles shall be surfaced, sealed and positively drained within the site, in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority. The areas shown on the approved plan to be used for car parking shall be retained as such for the life of the development and shall not be used for any other purpose.

Reason: To prevent the egress of water and loose material onto the public highway and secure appropriate off street car parking for the life of the development.

12 The development hereby approved shall not commence unless and until nos. 81 and 85 Main Street, Fulford has permanently ceased trading as a hotel, including the long term letting of bedrooms.

Reason; In the interests of highway safety.

13 All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00  
Saturday 09.00 to 13.00  
Not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of adjacent occupiers

14 Prior to the commencement of development the developer shall submit a "Sustainable Design and Construction" statement for the development. This statement shall include the measures to be incorporated at the design and construction stage in order for the dwelling to achieve an Ecohomes "Very Good" rating or the equivalent standard under the Code for Sustainable Homes. Prior to first occupation of the dwelling, a further statement shall be submitted which confirms that the dwelling has achieved this standard. If the dwelling has not achieved the required sustainability standard, details of the changes to be made to the development to bring the dwelling up to the standard required and a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

15 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 8.0 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: To establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

16 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1c of the Development Control Local Plan which requires that all new housing sites make provision for the open space needs of future occupiers.

**INFORMATIVE:**

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The

obligation should provide for a financial contribution calculated at £2124.

No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- The principle of residential use
- The effect on the character and amenity of local environment
- The effect on the character and appearance of Fulford Conservation Area
- The effect on residential amenity
- access, parking and highway safety
- drainage
- sustainability
- public open space

As such the proposal complies with Policies GP1, H4a, HE2 and HE3 of the City of York Draft Local Plan.

2. If, as part of the proposed development, the applicant encounters any suspect contaminated materials in the ground, the Contaminated Land Officer at the council's Environmental Protection Unit should be contacted immediately. In such cases, the applicant will be required to design and implement a scheme remediation to the satisfaction of the Local Planning Authority. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990.

3. The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be noted and acted upon. Failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(i) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(ii) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion

engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(iii) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(iv) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(v) There shall be no bonfires on the site

**Contact details:**

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