

OFFICER: Lee Walton (01935) 462324

APPL.NO: **07/03589/FUL APPLICATION TYPE: Full Application

PARISH: South Petherton WARD: SOUTH PETHERTON

DESCRIPTION: Retrospective application for the use of land to station a mobile home. (GR 344551/115122)

LOCATION: Mobile Home at South Harp Farm, South Harp, South Petherton, Somerset TA13 5LP

APPLICANT: Mrs J Day

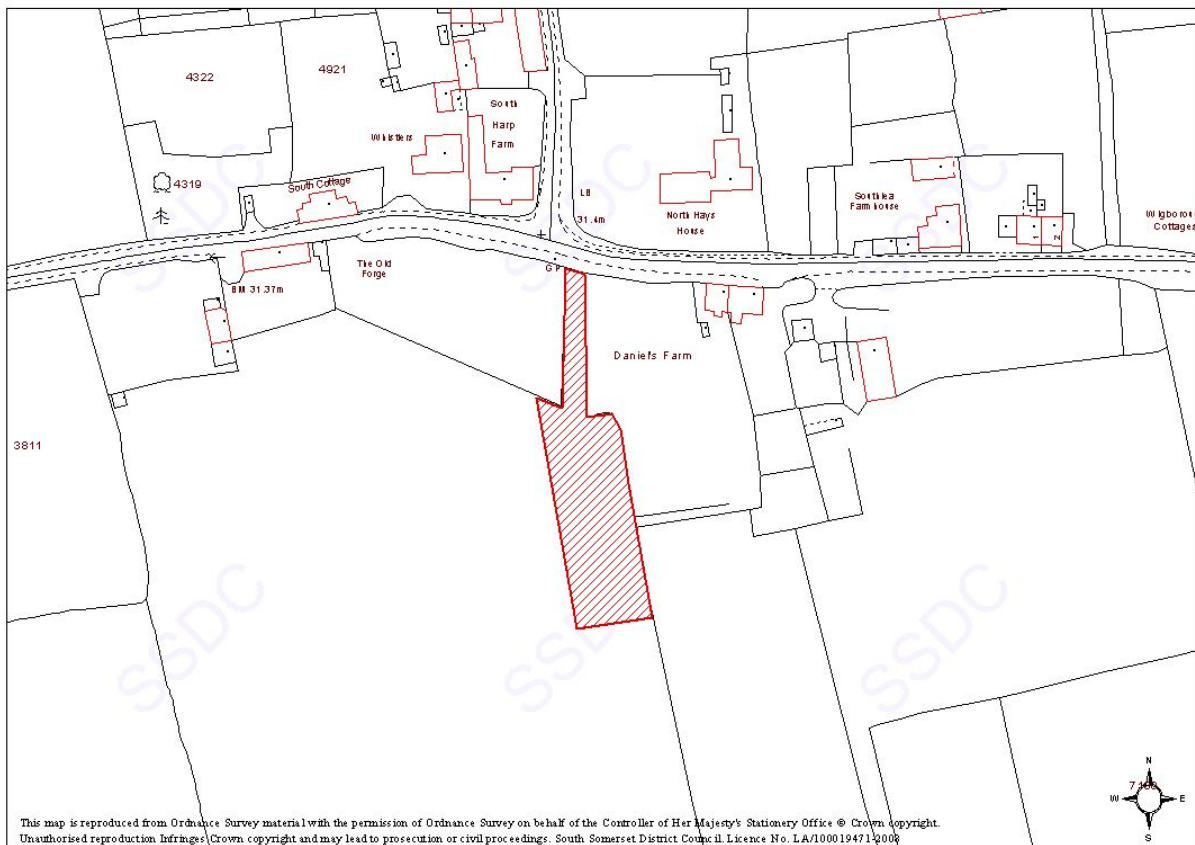
AGENT: Paul Dance, Foxgloves, 11 North Street, Stoke Sub Hamdon, Somerset TA14 6QR

DATE ACCEPTED: 27 July 2007

Reason For Referral

Ward Members have asked that the Area Committee is given the opportunity to consider the application.

Location And Proposal



Context

There have been two previous similar applications made under refs: 05/02451/FUL and 06/02057/FUL which were considered separately by the Area North Committee in May 2006 and January 2007 respectively. This latter application was considered at Regulation Committee where Members decided to refuse the scheme.

This resubmission up-dates the agricultural position and includes a further personal health issue. Following the earlier refusal, the applicant may have sought to appeal the Council's decision, an avenue which has not been followed by the applicant.

The applicant's site lies in designated open countryside set back on the south side of the highway running through the hamlet known as Lower Stratton. The applicant seeks planning permission for use of land to station a mobile home. The land subject of this application extends to a little more than 2 hectares (5 acres). Compared with the earlier site plan the red outline is reduced to an area associated immediately with the mobile home, with the blue outline together totalling about 2 hectares (5 acres) in extent.

Planning History

Erection of field sheltered permitted in 2007.

06/02057/FUL - Temporary siting of mobile and erection of field shelter. Refused at Regulations Committee.

05/02451/FUL - Mobile home for agricultural holding and erection of field shelter. Refused.

Policy

Somerset and Exmoor National Park Structure Plan

STR1 Sustainable Development

STR6 Development Outside Towns, Rural Centres and Villages

Policy 49 Transport Requirements of New Development

South Somerset District Local Plan 2006

HG15 Agricultural and Forestry Dwellings

ST3 Development Areas

ST6 Quality of Development

ST5 General Principles of Development

EC3 Landscape Character

Central Government Guidance

Planning Policy Statement 1 - Delivering Sustainable Development

Planning Policy Statement 7 - Sustainable Development in Rural Areas. Annex A.

Applicant's Case

The Agents justification is summarised below:

Introduction

This company has been appointed to set out the issues in more detail. There are two major considerations: the personal circumstances under which are two main issues: the historic personal circumstances and, health issues, and secondly the agricultural need considerations of the proposal.

Historic Personal Circumstances

Forced to move into the mobile home by circumstances.

Health Issues

A letter from the Multiple Sclerosis Society: Self management becomes extremely important to all sufferers. They need to have control over their life and surroundings as much as possible. This letter goes on to say that for most of us the process of obtaining Planning Permission can be stressful. Someone already coping with a lifelong, debilitating condition, this would be doubly so and for those who know Josie can see that it has taken a toll on her.

A letter from her doctor confirms the applicant is a MS sufferer and goes on to say as with any illness, it is possible that stress plays a part.

We (Paul Dance Ltd) believe that personal circumstance is a material consideration and can provide positive decisions if (the Council) considers such personal circumstances of sufficient weight to justify such a decision.

Since the last Planning application we regret to say that Ms Day has developed cancer and she is currently undergoing treatment at Bristol.

Agricultural Need Considerations

The stock numbers are similar as previously considered. Whilst we have to accept that Ms Day's stocking numbers cannot fulfil the requirements of PPS7 annex 1, we feel it important to draw attention to the fact that the income derived from the business, added to her pension, takes her income up to a level on which she can survive.

Consultations

Parish Council:

Refuse

Highways:

The proposed development is remote from any urban area and therefore distant from adequate services and facilities and in addition public transport services are infrequent. The fostering of growth in the need to travel is contrary to PPG13 and RPG10, and to the provisions of policies STR1 and STR6 of the South Somerset and Exmoor National Park Joint Structure Plan Review.

Area Engineer:

No comment

Representations

There have been 18 neighbour notification letters issued and a site notice posted at the site (General Interest). The application was consulted on twice.

First consultation - There were 38 responses broken down into 6 objections and 34 letters in support of the application.

Supporters' state:

- No detrimental affects on neighbours
- Effective screening for mobile home from highway
- Diversity would be lost if modern farming practice was to be used
- Her presence on site 24 hours a day is essential for the proper welfare of her animals
- Application determines the future of the applicant who has always maintained the land
- Personal circumstances - long term resident.

Objectors' state:

- Agricultural appraisal is flawed and incorrect and not independent
- In spelling out the applicant's personal circumstances, it is clearer than ever that it is driven by her financial circumstances
- Significant impact on landscape character
- Essential care can be planned for
- Temporary permission not allowed where a permanent dwelling would not be supported
- Not financially viable
- Functional need to be applied.

- Given personal circumstances impossible for applicant to tend the land

Considerations

Members are requested to refer to the attached Committee item previously considered in January 2007. The circumstances are considered to be unchanged with the exception of the additional health issue raised treatment for which has taken place and a review of this is due in late November with periodic checks thereafter to ensure non-return.

There are two main issues relating to this application, namely, whether there is an essential need in terms of agricultural need, and the personal circumstances of the applicant. This latter consideration should normally be applied only where all other considerations cannot be progressed further.

Agricultural Need

The starting point for the consideration of this application is whether an essential need has been established. In this case the applicant's agent is clear, as is the letter from the University of Exeter: that stock numbers cannot fulfil the requirements of PPS7 Annex 1.

Planning Policy Statement 7 Annex A (Functional and Financial Tests) is central to the consideration of this type of application, namely, an agricultural workers dwelling.

Key test: Whether essential agricultural need is present, otherwise the case falls, or where there is a case, is there a significant economic justification.

Having reviewed the evidence submitted it is not considered there is an essential need. As a result the financial test is not engaged although the information submitted suggests that the development has no significant economic justification either.

Personal Circumstances

These have been fully considered previously. Personal circumstances should be rarely used on their own in determining an application and where this is the case the reasons highlighted need to be unique and not often repeatable. The circumstances are the same as those previously considered. The exception is the additional health treatment for the cancer given at Bristol, following treatment earlier in the year a further check as to her condition to take place in late November, and thereafter - all being well - 3 monthly checks thereafter.

What is sought at this time is a personal permission. This would enable the applicant to reside on the site until such time as she was not capable of living on the site. The health issues arising all point to the stress she would have from removing from the site while the planning process is an alternative form of stress and in the future one must question the amount and effort of work to keep the site relatively tidy and in order. It seems that it would be best for all concerned if the difficult decision about moving on was made now rather than prolonged. The issues arising from this application have not changed in any significant way. Those personal circumstances are not considered unique enough to justify an approval, and it is a concern that the historic circumstances show that the applicant moved onto the site in breach of planning when the judiciary attempts to remain in her previous home had been completely exhausted. Too many other people could easily seek to stay on their land simply because this is the way they have always lived. Ms Day's personal circumstances are not considered to be so unique as to warrant special merit.

Other Matters Arising

The immediate neighbours who object to the proposal believe the site to be an eyesore and further, because there is no agricultural basis in terms of essential need and of an economic justification they are unhappy that their, and others, visual amenity is harmed. Some weight

should be given to the visual harm arising from this application that does not meet the Annex A requirements.

Human Rights

These have been taken into account but it is not considered that they outweigh policy in this instance.

Concluding Remarks

It is strongly advised that the evidence to approve the proposal on an agricultural workers basis is not forthcoming. It is considered that there is not an essential need and there is no economic justification to warrant support for the application.

Personal circumstances are seldom the basis for forming a recommendation to approve. Where there are these have to be relatively unique to distinguish the application from others. Personal circumstances should only be used where the issues are finely balanced. In this case there is a clear policy objection.

**** RECOMMENDATION**

Given the policy issues involved and to maintain consistency following the earlier starring of the report this report is likewise 'double starred' for referral to Regulation Committee should Area Committee be minded to approve the application.

REFUSE

01. The applicant has failed to demonstrate a clear need for the applicant to live on this site and therefore the proposal is considered to be unjustified development within a countryside location that will have an adverse visual impact upon the character of the area and will inevitably foster a growth in the need to travel by private motor vehicle. The proposal is therefore contrary to policies HG15, ST3, ST5, ST6 and EC3 of the South Somerset Local Plan 2006, STR1 and STR6 of the Joint Somerset and Exmoor Structure Plan Review 2000 and advice contained within PPS1 (Sustainable Development) and PPS7 (Development in Rural Areas).
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OFFICER: Lee Walton (01935) 462324

APPL.NO: 06/02057/FUL APPLICATION TYPE: Full Application

PARISH: South Petherton WARD: SOUTH PETHERTON

DESCRIPTION: Application for retrospective planning permission for the temporary siting of a mobile home for residential occupation, agricultural holding and erection of field shelter for cattle (GR 344530/115236)

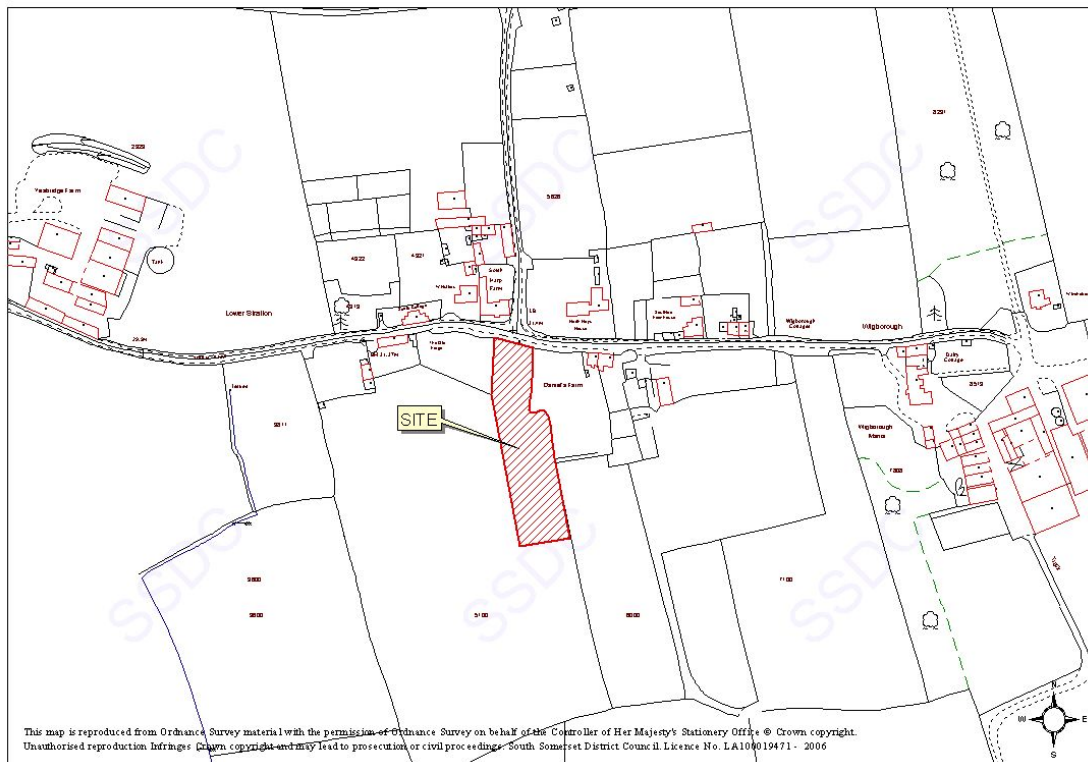
LOCATION: Mobile Home at South Harp Farm, South Harp, South Petherton, Somerset TA13 5LP

APPLICANT: Ms J Day

DATE ACCEPTED: 25 July 2006

Reason For Referral

The Parish Council supports a temporary permission. The proposal is considered contrary to policy objectives. In addition there have not been any personal circumstances forwarded considered supportive of a temporary permission, officers therefore recommend refusal.



Context

Members will be aware that the previous application 05/02451/FUL was considered at Area Committee in May 2006. The applicant has resubmitted on the basis of a temporary permission for an agricultural workers dwelling, and the permanent siting of a cattle shelter.

The earlier officer's report and minutes are attached as an appendix and need to be read in conjunction with the current application.

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Location And Proposal

The applicant's site lies in designated open countryside set back on the south side of the highway running through the hamlet known as Lower Stratton. The applicant seeks retrospective planning permission for residential occupation of a mobile home for the agricultural holding and erection of a field shelter for cattle. The land subject of this application extends to a little more than 5 hectares (approximately 13 acres). The applicant refers to renting a further 24 acres of grass keep. Further details have not been submitted. Land Registry documents show that the vast majority of the land has been sold off and is now rented by the applicant who retains the plot immediately to which the mobile home relates (approx. half an acre). This plot is otherwise land locked with access to the site from the highway sold off along with the other parcels of land earlier in the year, which have all been leased back by the applicant.

The agricultural shelter measures 20metres long by 10 metres deep with a mono-pitch roof rising to 4 metres in height. The purpose of the shelter is primarily to provide shelter for the applicants cattle, one of the practical purposes being to provide cover when the vet visits and needs to work with the cattle.

Policy

Somerset and Exmoor National Park Structure Plan
STR1 Sustainable Development
STR6 Development Outside Towns, Rural Centres and Villages
Policy 49 Transport Requirements of New Development

South Somerset District Local Plan (as modified)
HG15 Agricultural and Forestry Dwellings
ST3 Development Areas
ST6 Quality of Development
ST5 General Principles of Development
EC3 Landscape Character

Central Government Guidance
Planning Policy Statement 1 - Delivering Sustainable Development
Planning Policy Statement 7 - Sustainable Development in Rural Areas. Annex A.

Applicant's Case

Their case is set out in the annexed report. The case officer visited the site on 30th October 2006. At the time it was noted that there was one mobile home, 6 outhouses/ units, several tractors/ vehicles/ equipment, 15 cows, 15 calves, 3 Dexters, 30 to 100 hens, 2 geese and 2 pigs. Ms Day gave an account of her circumstances being a country resident who loved her animals and way of life.

Consultations

Parish Council

Recommend approval on a temporary, not a permanent basis, solely for the use of the applicant and not for the site itself (no comments are made in relation to the agricultural structure).

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Highways

The proposed development is remote from any urban area and therefore distant from adequate services and facilities and in addition public transport services are infrequent. The fostering of growth in the need to travel is contrary to PPG13 and RPG10, and to the provisions of policies STR1 and STR6 of the South Somerset and Exmoor National Park Joint Structure Plan Review.

Area Engineer

No comment

Representations

There have been 18 neighbour notification letters issued and a site notice posted at the site (General Interest). The application was consulted on twice.

First consultation - There were 11 responses broken down into 6 objections and 4 letters in support of the application.

Supporters' state:

- No detrimental affects on neighbours
- Effective screening for mobile home from highway
- Minimise impact and improve the environment
- Given personal circumstances impossible for applicant to tend the land
- Diversity would be lost if modern farming practice was to be used
- Application determines the future of the applicant who has always maintained the land
- Environmental effects are far less than they could be should the application be refused
- Applicant and her animals add character and colour to the village
- There is no unseemly view on the landscape.

Objectors' state:

- Agricultural appraisal is flawed and incorrect and not independent
- Land registry shows application to be incorrect
- Financial details unsound: grass-keep not accounted for, one female pig
- Significant impact on landscape character
- Essential care can be planned for
- Temporary permission not allowed where a permanent dwelling would not be supported
- Not financially viable
- Function need to be applied.

Second Consultation - 6 responses objecting to the application

- Strongly object to the application being put forward in the name of my family home, South Harp Farm, Lower Stratton, the title Deeds are in my name and I do not wish to be associated with this application
- No essential need shown, PPS7 Annex A sets out criteria by which the application is to be assessed
- Kune Kune pigs are pets, no financial reality, no security of tenure - impossible to show any long term agricultural viability
- Visual amenity issues: lots of belongings, sheds, back of a truck, caravan and bits of fencing, covenant to stop any building on the land
- Appraisals conclusions arrive at: 'none of these in themselves constitute a functional

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need to live on site...the holding would be compromised' does not prove that it is vital.

Considerations

Members are requested to refer to the attached annex document. The opportunity is taken here to reinforce certain considerations.

Agricultural Need

Planning Policy Statement 7 Annex A (Functional and Financial Tests) is central to the consideration of this type of application, namely, an agricultural workers dwelling.

Key test: Whether essential agricultural need is present, otherwise the case falls, or where there is a case, is there a significant economic justification.

Having reviewed the evidence submitted it is not considered there is an essential need. As a result the financial test is not engaged although the information submitted suggests that the development has no significant economic justification either.

The applicant's main income is derived from elsewhere. It is noted that the application refers to a retirement income, as well as to winding down and become semi retired in the process. The submission does not show any long term intention to grow the business: The purpose behind Annex A is to encourage enterprise and to seek to support viable businesses.

Ms Day's Vet stated while on site that it would be beneficial to be on site to provide the best quality attention. Officers do not disagree with such sentiment but have to consider the proposal in light of the planning policy framework to which the application relates. Security was another issue raised, but while a material consideration only limited weight can be given to this aspect and there is no evidence of a security problem other than is generally common to many other farmers. It is accepted that during breeding times mobile accommodation can be brought to the site for short periods, but there is no demand for anything near full time occupation of the site.

The Parish Council recommends a temporary permission. But this will only delay and in effect abuse the concession given for agricultural dwellings - a process that anticipates a permanent bricks and mortar outcome. Temporary permission forms a stepping-stone towards this and not an alternative option that can be swept away at some point in the future. The use of a temporary permission in the context of appraising agricultural workers dwellings should represent a robust and rigorous form of appraisal. What do we do in 3 years with no certainty of an agricultural holding with potential for a sustainable business.

Personal Circumstances

These have been fully considered and are contained in the annexed report. Having moved away from the agricultural arguments Members may wish to consider the personal circumstances of the applicant. Normally a decision is based on the personal circumstances where a decision is found to be finely balanced.

Personal circumstances should be rarely used on their own in determining an application and where this is the case it is suggested that the reasons highlighted need to be unique and not often repeatable. Obvious examples are extreme age and a life time interest in the location, and/ or terminal illness and a relatively limited amount of time to remain on site. There are also local examples for the siting of mobile homes where temporary permissions have been repeated often and over a long period of time contrary to circular advice where after some 20 years plus an argument can be put forward to permit subject to a personal permission. This

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has happened recently in both Area North (Westport) and Area West (Higher Chillington).

Having considered the issues arising officers are unable to support the application. In terms of age and current health circumstances there is nothing to distinguish Ms Day from the vast majority of other residents. Many retiring or semi-retiring farmers may wish to sell their dwelling and move on to a parcel of land with a mobile home.

A temporary permission is not appropriate in this instance. The applicant is willing to reside on site for as long as is possible. Her age means that the site might be occupied for a very long time as distinct from the three or five years, perhaps renewed once. Members might rather consider a personal condition and therein lies the central point namely that the applicant might reasonably be occupying the site in 20 years time. This length of occupation is at odds with accepted policies. There are no policies at present to allow retirement or semi-retirement on small parcels of land with mobile homes.

Other Matters Arising

The immediate neighbours who object to the proposal believe the site to be an eyesore and further, because there is no agricultural basis in terms of essential need and of an economic justification they are unhappy that their visual amenity is harmed. Some weight should be given to the visual harm arising from an application that does not meet the Annex A requirements.

The cattle shed as an agricultural building and required for the management of the animals is considered acceptable and would be approved under a separate application. A number of other sheds/ outhouses require planning permission and have been considered. These are not considered appropriate unless related to an agricultural workers dwelling on the site.

Human Rights

This is considered in the annexed report and it is not considered they outweigh policy in this instance.

Concluding Remarks

It is strongly advised that the evidence to approve the proposal on an agricultural workers basis is not forthcoming. It is considered that there is not an essential need and there is no economic justification made.

Personal circumstances are seldom the basis for forming a recommendation to approve. Where there are these have to be relatively unique to distinguish the application from others. Personal circumstances should only be used where the issues are finely balanced. In this case there is a clear policy objection.

**** RECOMMENDATION**

Given the policy issues involved and to maintain consistency following the earlier starring of the report this report is likewise 'double starred' for referral to Regulation Committee should Area Committee be minded to approve the application.

REFUSE

FOR THE FOLLOWING REASON(S):

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01. The Local Planning Authority is not satisfied from the information available that a full time agricultural need has been established for the provision of a dwelling that is essential to the proper management of the land in question. Therefore the proposal is contrary to policy HG15 of the South Somerset Local Plan.
 02. The proposal for which no special essential need has been established constitutes the undesirable consolidation of development beyond the recognised limits of a designated settlement to the detriment of the visual amenity and rural appearance of the locality and is therefore contrary to policy STR1 and STR6 of the County Structure Plan and policy ST3 and EC3 of the South Somerset Local Plan.
 03. The personal circumstances put forward do not outweigh the strong policy objection to this proposal and could be repeated and replicated by many others.
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