



NORWICH City Council

Committee name: Planning Applications

Committee date: 14/12/2023

Report title: Variation of Condition 3: Opening hours of permission 20/00497/F to allow the premises to operate 08:00-00:30 Monday-Thursday and Sunday, and 08:00-01:00 Friday and Saturday

Report from: Head of planning and regulatory services

OPEN PUBLIC ITEM

Purpose:

To determine:

Application no: 23/01074/VC

Site Address: 6 Aylsham Crescent, Norwich, NR3 2RZ

Decision due by: 03/01/2024

Proposal: 'Variation of Condition 3: Opening hours of permission 20/00497/F to allow the premises to operate 08:00-00:30 Monday-Thursday and Sunday, and 08:00-01:00 Friday and Saturday'

Key considerations: Amenity and Transport Impacts

Ward: Catton Grove

Case Officer: Sophie Buckingham

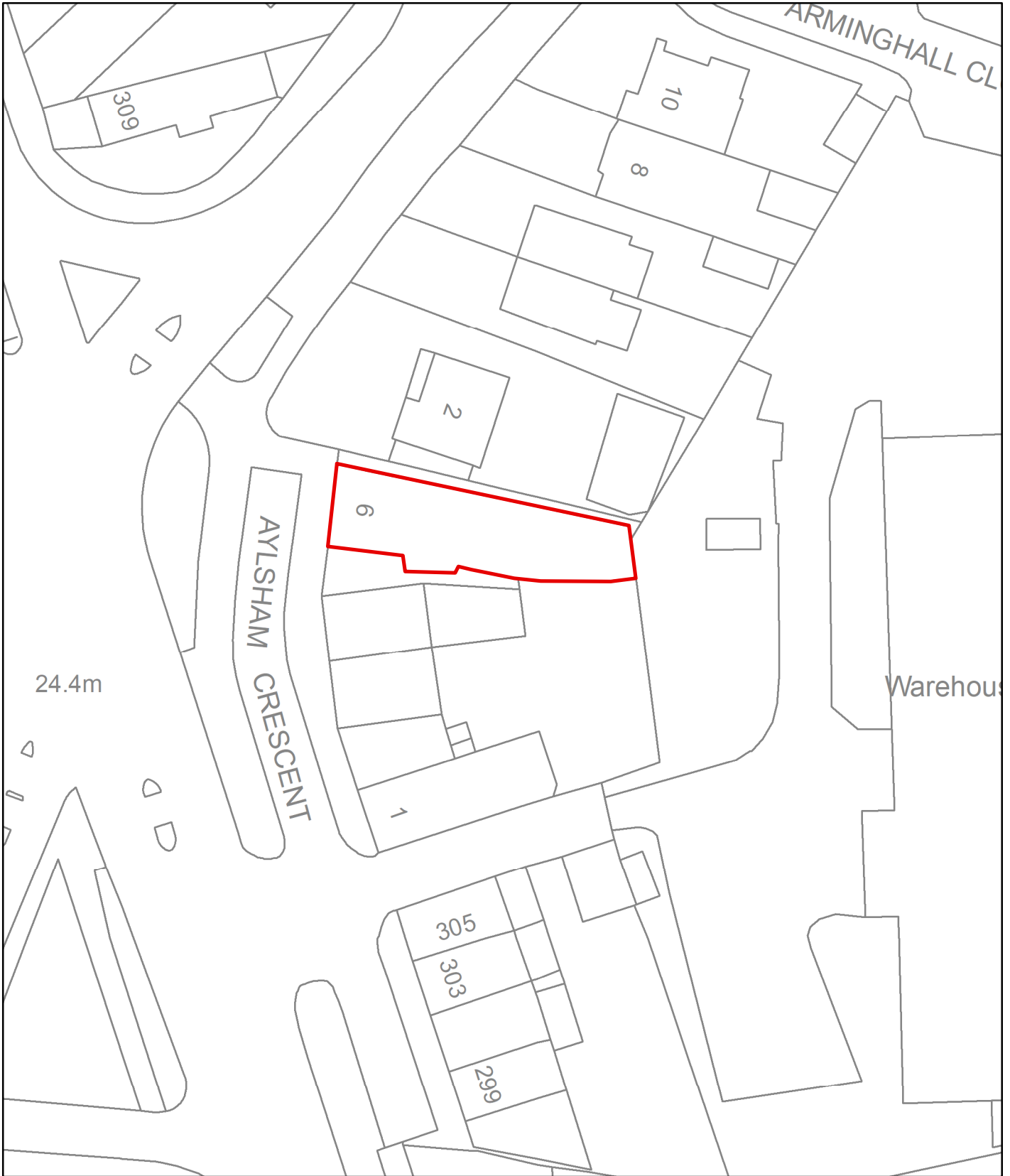
Applicant/agent: Mr Gokulan Jegatheeswaran (Dessert Lounge)

Reason at Committee:

At the discretion of the Head of Planning & Regulatory Services

Recommendation:

It is recommended to approve the application for the reasons given in the report and subject to the planning conditions set out in paragraph 28 of this report, and grant planning permission. **Note that a condition is proposed which restricts the opening hours further than the applicant requests.**



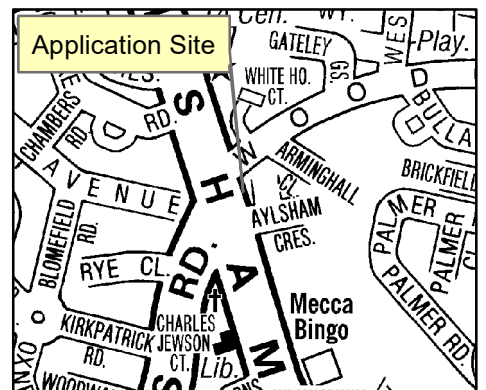
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Planning Application No 23/01074/VC
 Site Address 6 Aylsham Crescent

Scale 1:500



NORWICH
 City Council
 PLANNING SERVICES



The site and surroundings

1. The site is an existing takeaway trading as 'Dessert Lounge' on Aylsham Crescent, which consists of a row of brick-built, flat-roofed commercial units.
2. To the north-east of the site is a residential street consisting of twentieth-century semi-detached two-storey housing and bungalows, with 2 Woodcock Road lying directly adjacent to the takeaway.
3. There is a small pull-in area for cars to the west of 6 Aylsham Crescent which is accessible from Aylsham Road, and shared by businesses in the immediate vicinity.

Constraints

4. Critical Drainage Catchment Area (DM3, DM5)
5. District Retail Centre (DM18, DM21)

Relevant Planning History

6. The records held by the city council show the following planning history for the site:

Ref	Proposal	Decision	Date
4/1996/0136	Internally illuminated sign to front of shop	APPR	18/04/1996
07/00781/U	Change of use from shop (A1 use) to financial services (A2 use)	APPR	10/08/2007
08/00498/A	2 x non-illuminated high-level signs; 1 x internally illuminated fascia sign and 1 x double-sided internally illuminated projecting sign	PART	11/07/2008
20/00497/F	Change of use from financial services (Class A2) to cafe/takeaway (Class A3/A5) including external ventilation equipment	APPR	20/08/2020

The Proposal

7. See previous decision (reference 20/00497/F, Appendix 1) for details of the former consent. The conditions and details in question are:

Existing Condition 3:

'The uses hereby approved shall not take place outside of the following hours: before 08:00 hours and after 22:00 hours Mondays - Sunday and Bank Holidays'

Reason: To safeguard the amenity of the surrounding area, in accordance with policy DM2 and DM11 of the Development Management Policies Local Plan 2014.

Proposed Variation of Condition 3:

'Opening hours of permission 20/00497/F to allow the premises to operate 08:00-00:30 Monday-Thursday and Sunday, and 08:00-01:00 Friday and Saturday'

8. It should be noted that the takeaway has currently been opening outside of permitted hours and this is the subject of an enforcement investigation.

Representations

9. Neighbours have been consulted. 3 x letters of representation have been received (for clarity, two representations arrived separately but from the same email address, making total independent letters received three, not four) citing the issues as summarised in the table below:

Issues raised	Response
<ul style="list-style-type: none"> • Vermin; 	This is not a material planning consideration, but is a matter that can be dealt with by Norwich City Council's Environmental Health team who are aware.
<ul style="list-style-type: none"> • Extensive litter not kept under control by owner; 	See Main Issue 1: Amenity
<ul style="list-style-type: none"> • Unsavoury smells/grease caused by 'no external ventilation as described in the original plan'; 	See Main Issue 1: Amenity
<ul style="list-style-type: none"> • Congestion from deliveries; 	See Main Issue 2: Transport
<ul style="list-style-type: none"> • Pollution from commercial business; 	See Main Issue 1: Amenity
<ul style="list-style-type: none"> • Unsociable loitering of individuals outside takeaway - noise; 	See Main Issue 1: Amenity
<ul style="list-style-type: none"> • Wellbeing issues; 	See Main Issue 1: Amenity
<ul style="list-style-type: none"> • Proximity of takeaway to residential housing - too close 	See Main Issue 1: Amenity

Statutory and non-statutory consultees

10. Consultation responses are summarised below. The full responses are available to view at <http://planning.norwich.gov.uk/online-applications/> by entering the application number.

11. Environmental Protection (Norwich City Council):

'We have discussed this premises with the Enforcement Team. Due to the issues with the extraction system and the noise from delivery drivers along with their proximity to a residential property we would recommend they do not open later than 11pm Monday to Saturday and 10pm on Sunday.

It should also be noted that if the premises was to open after 11pm they would require a later night refreshment licence to operate after this time.'

12. Highways (Norfolk County Council):

'As this premises has an extant consent for its business use, and the unit is within an established local centre with adequate means of access to the highway network and on-street parking provision, it would be difficult to

substantiate an objection. For these reasons there is no objection and no recommended conditions.'

Assessment of Planning Considerations

Relevant Development Plan Policies

13. Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan)

- DM2 Ensuring satisfactory living and working conditions
- DM11 Protecting against environmental hazards
- DM24 Managing the impacts of hot food takeaways

14. Relevant sections of the National Planning Policy Framework July 2021 (NPPF):

- NPPF7 Ensuring the vitality of town centres
- NPPF8 Promoting healthy and safe communities
- NPPF15 Conserving and enhancing the natural environment

Case Assessment

15. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant development plan policies are detailed above. Material considerations include policies in the National Planning Policy Framework (NPPF), the council's standing duties, other policy documents and guidance detailed above, and any other matters referred to specifically in the assessment below. The following paragraphs provide an assessment of the main planning issues in this case against relevant policies and material considerations.

Main Issue 1. Amenity

16. Key policies and NPPF paragraphs – DM2, DM11, NPPF Paragraphs 8 and 127.

17. The proposal would encourage more trade on site 7 days a week and by implication would cause increased cumulative impacts of such trade, for instance, noise, traffic, and refuse/litter.

18. The application's proposed opening hours would extend past midnight 7 days a week, which is not considered appropriate in terms of potential noise disturbance to neighbouring residential dwellings. The proximity of the neighbour directly adjacent at 2 Woodcock Road is such that any extension of opening hours would increase the number of delivery vehicles collecting from the premises throughout the late evening into early morning, and could legitimately cause additional pollutants close to occupants of a residential dwellinghouse. An increase in trade, producing more refuse would lead to greater potential for littering from customers of the business, which could affect wellbeing of surrounding residents and encourage pests and vermin.

19. For the reasons listed above, it is considered appropriate to approve the application for extended opening hours up to 11pm on Monday-Saturday, and

up to 10pm on Sunday/Bank Holidays. This allows just 1 extra hour of trading Monday-Saturday beyond the current opening hours condition.

20. Note that existing conditions relating to air conditioning units and extraction ventilation systems are to be reapplied in order to protect residents from noise and odour.

Main Issue 2. Transport

21. Key policies and NPPF paragraphs – DM30, DM31, NPPF Paragraphs 110-112.
22. Consultation from Highways Norfolk County Council has stated in assessment of this case, 'As this premises has an extant consent for its business use, and the unit is within an established local centre with adequate means of access to the highway network and on-street parking provision, it would be difficult to substantiate an objection. For these reasons there is no objection and no recommended conditions.'
23. As such, the application for varying opening hours would be considered acceptable in terms of retaining the parking offering currently on site. Access would not be affected by the proposed variation in opening hours. There is concern that delivery-driver congestion will be caused by the increase in opening hours, however there is adequate parking space on site to accommodate the row of businesses at Aylsham Crescent.

Equalities and diversity issues

24. There are no equality or diversity issues.

Local finance considerations

25. Under Section 70(2) of the Town and Country Planning Act 1990 the Council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are defined as a government grant or the Community Infrastructure Levy. Whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority.
26. In this case local finance considerations are not considered to be material to the case.

Human Rights Act 1998

27. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to approve this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of their property in this way is in accordance with the general interest.

Planning Balance and Conclusion

28. The proposed variation of condition is currently not in accordance with the requirements of the National Planning Policy Framework and the Development Plan, however, it has been concluded that there are reduced opening hours that would be acceptable.

Recommendation

29. To: approve Application 23/01074/VC, 6 Aylsham Crescent Norwich NR3 2RZ subject to the following conditions:

1. In accordance with plans
2. That opening hours will be restricted to 8am until 11pm on Monday-Saturdays and from 8am until 10pm on Sundays and Bank Holidays.
3. No air conditioning units to be installed without prior consent.
4. Extract ventilation to be agreed within 3 months of the date of this consent.

Appendices: Appendix 1: Previous Decision Notice (20/00497/F)

Contact officer: Planner

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Dessert Lounge Norwich
Dessert
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The Norwich Kebab
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Daisy Baris
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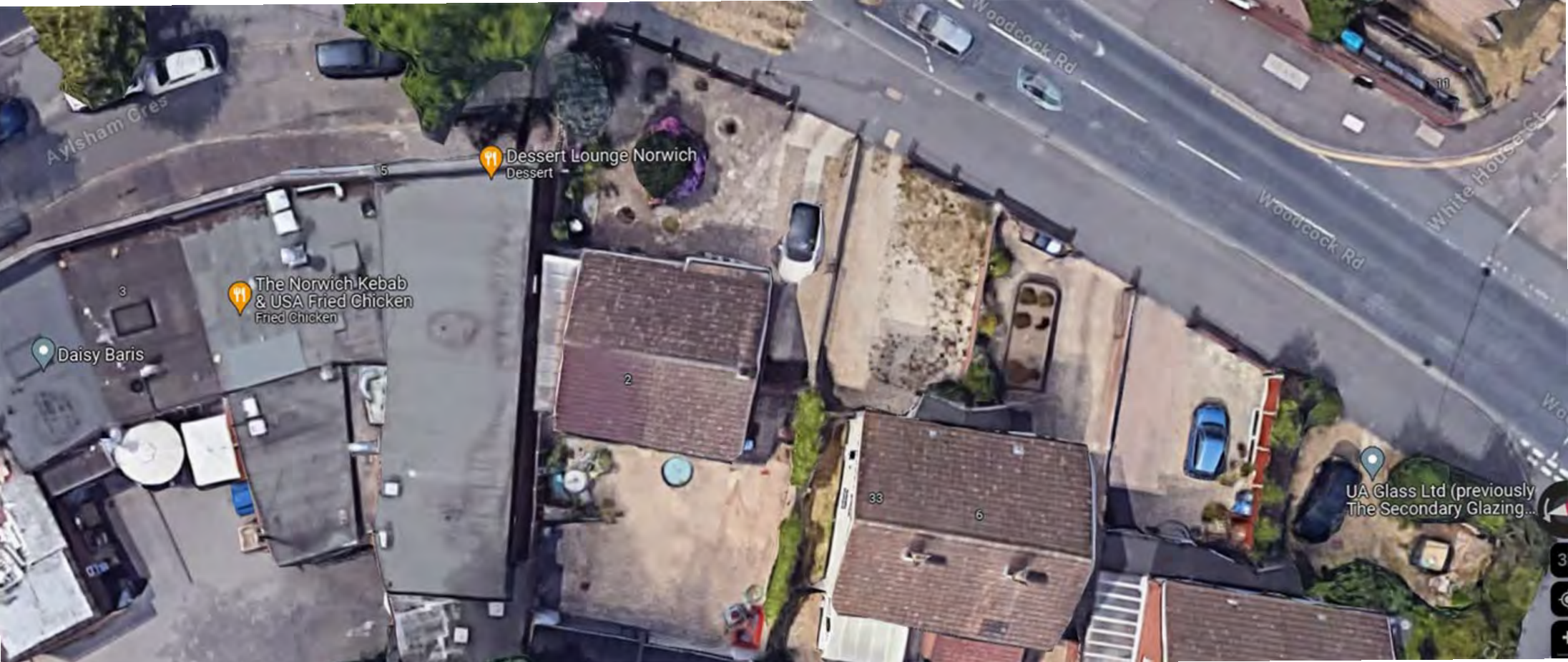


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