# Appeal Decision

**Gwendawiad ar 17 & 19/12/13**  
**Ymweiliad a safe a wnaed ar 19/12/13**  
**gan Alwyn B Nixon  BSc(Hons) MRTPI**  
**Arolygydd a benodir gan Weinidogion Cymru**  
**Dyddiad: 28 Ionawr 2014**  

**Hearing held on 17 & 19/12/13**  
**Site visit made on 19/12/13**  
**by Alwyn B Nixon  BSc(Hons) MRTPI**  
**an Inspector appointed by the Welsh Ministers**  
**Date: 28 January 2014**

**Appeal Ref: APP/T6850/A/13/2198831**  
**Site address: Land at Pentre Tump, South-East of Llanfihangel-Nant-Melan, New Radnor, Powys**

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## The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by REG Windpower Limited against the decision of Powys County Council.
- The application Ref P/2012/0779, dated 29 June 2012, was refused by notice dated 13 December 2012.
- The development proposed is construction of 3 wind turbine generators with a maximum height to blade tip of 103.5m above ground level, and infrastructure comprising vehicle access tracks, hardstandings, construction compound, upgraded highway access, electrical switchgear building and compound, cables and ancillary development.

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## Decision

1. The appeal is dismissed.

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## Procedural Matters

2. In the interests of accuracy I have corrected the site address relative to Llanfihangel-Nant-Melan from "south-west of" to "south-east of".

3. The application was accompanied by an Environmental Statement (ES) and various supporting technical assessments and statements. The submitted environmental information included a revised Landscape and Visual Chapter (Revision B; August 2012), based on an anticipated turbine hub height of 65m. Subsequent to the Council's decision the appellant has submitted additional material in support of the appeal, including Supplementary Environmental Information (August 2013) and Appendices to the Landscape Appeal Statement (October 2013). I have taken all of the environmental information in the ES and the additional technical and other information into account in arriving at my decision.
4. The Council gave 3 reasons in December 2012 for its decision to refuse planning permission. However, reason 3, relating to insufficient information being provided to demonstrate an appropriate transport route and site access, was withdrawn by the Council on 23 September 2013 (subject to appropriate conditions being imposed), in the light of the supplementary environmental information submitted in August 2013. On the same date the Council also withdrew the element of reason 1 concerning visual impact in relation to landscape, parks and gardens of special historic interest, again in the light of the supplementary environmental information submitted in August 2013.

5. A unilateral planning obligation has been completed dated 2 December 2013. The obligation relates to rights of way in the vicinity of the site and contains various covenants in the event of planning permission being granted. I return to these matters later. The planning obligation is a material consideration to which I attach weight in the determination of this appeal.

6. As part of the hearing proceedings I undertook an inspection of the site and surrounding environs on 19 December 2013, accompanied by representatives for the appellant, the Council and some local opponents of the scheme. The inspection included the proposed access route from the A44, the locations of the turbines and other elements of the scheme, rights of way in the vicinity, nearby representative viewpoints and the relationship of the site to dwellings in the locality. In addition, I carried out further inspections of the area, including visiting more distant viewpoints, on an unaccompanied basis prior to reaching my decision.

Main Issues

7. The main issues in this appeal concern the effects of the proposed development on the character and appearance of the landscape and its consequences in these terms for amenity, and the balance to be struck between the effects of the proposal in these terms and the benefits of the scheme in delivering energy from a low-carbon renewable source, having regard to the thrust of relevant local and national policies concerning onshore wind energy developments.

Reasons

Policy context

9. TAN 8 recognizes that large scale (over 25 MW) wind developments will make the greatest contribution to meeting renewable energy targets from onshore wind sources, and advises that such developments should be concentrated into particular defined Strategic Search Areas (SSAs). TAN 8 considers that most areas outside the SSAs should remain free of large wind power schemes. It recommends that local planning authorities consider the cumulative impact of small schemes in areas outside of the SSAs. TAN 8 states that there is a balance to be struck between the desirability of renewable energy and landscape protection. Whilst that balance should not result in severe restriction on the development of wind power capacity, there is a case for avoiding a situation where wind turbines are spread across the whole of a county. Outside the SSAs the implicit objective is to maintain the landscape character, i.e. no significant change in landscape character from wind turbine development.

10. TAN 8 offers support to local planning authorities wishing to introduce policies in their development plans that restrict almost all wind energy developments larger than 5 MW to within SSAs and urban / industrial brownfield sites.

11. The development plan for the area is the Powys Unitary Development Plan (UDP), adopted March 2010. Strategic policy SP3 in the UDP requires development to take account of the need to protect, conserve and wherever possible enhance the natural, historic and built heritage. Strategic policy SP12 states that proposals for energy generation from renewable sources will be approved providing that they meet the landscape, environmental, amenity and other requirements set out in the UDP. The UDP also contains a large number of generic policies setting out development requirements in relation to a wide range of considerations and matters. Whilst a number of these generic policies bear on the proposal to some extent, UDP policy E3: Wind Power is central to the consideration of the proposal. Policy E3 establishes that wind energy developments will be approved where a range of provisos are met, including that they do not unacceptably adversely affect the environmental and landscape quality of Powys, and that the enjoyment and safe use of highway (sic) and the public rights of way network, especially bridleways, is not unacceptably adversely affected.

Landscape and visual effects

12. The 3 turbines would be positioned linearly along a 1km section of a ridge to the south of the A44 passing through the valley of the Summergil Brook between New Radnor and Llanfihangel-Nant-Melan before it climbs westwards past Forest Inn and proceeds towards Llandegley. The ridge varies in elevation from about 480m at its western end (Bryn-y-maen) to about 425m above New Radnor, generally keeping above the 400m contour along its length. The turbines would be located within enclosed upland pasture on top of the ridge at an elevation of about 420m, with the valley floor at about 280m. To the south of this part of the ridge, across slightly lower ground, hills rise to about 530m (Caety Traylow and Llanfihangel Hill).

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1 TAN 8 Annex D para 8.4
13. Access to the site of the turbines would be from the A44 via Lower House Farm. The existing farm access at this point would be upgraded to accommodate large vehicle turning movements. Two small rudimentary agricultural buildings would be removed to facilitate access. A 5m wide stone track would be formed, substantially following the line of an existing bridleway up the hillside but in its middle section taking a new course across and up the slope. The development would also include individual turbine service tracks and hardstandings, temporary construction compound, and electrical switchgear building and compound, all within the confines of the enclosed upland pasture close to the turbine positions.

14. The landscape and visual effects of the proposed development have been the subject of detailed analysis and assessment via the ES, including the supplementary environmental information (SEI) prepared in August 2013. The local landscape character appraisal and wind energy capacity / sensitivity analysis in the SEI builds on the earlier LANDMAP aspect area analysis in Chapter 7 of the ES and seeks to provide a more detailed assessment of the sensitivity of the local landscape and its capacity to accept a wind turbine development, based on a 5km radius study area and focussing on the Powys County Council Landscape Character Assessment which is informed by and derived from the LANDMAP study.

15. However, whilst I accept that the methodology followed in this assessment reflects currently accepted professional guidelines, I consider that analysis of local landscape character and wind energy capacity / sensitivity on the basis of the principal overall characteristics of landscape character area LCA R3 Aberedw Uplands only partly reflects the particular landscape characteristics of the appeal site and its environs. LCA R3 is predominantly characterised as of large scale with broad hilltops, often merging to create an upland plateau landform, with simple landcover. Whilst the proposed turbines would undoubtedly be perceived primarily within this context from surrounding upland vantage points, the turbines and the proposed access track from the A44 would equally significantly be experienced in the context of the strongly-defined Summergil Brook valley and the enclosing Pentre Tump ridgeline, which has very different characteristics to the simpler, broader-scale, unenclosed upland landscape.

16. Although the landscape on the south side of the A44 carries no national or local landscape protection designation, it is nonetheless evaluated as of high scenic quality. Seen from Llanfihangel-Nant-Melan and the A44 for a kilometre or so to the east of the hamlet, the turbines would be perceived as very large structures, frequently with blades in rotation, occupying a considerable extent of the skyline little more than a kilometre away. Whilst the actual turbine positions would be set back somewhat from the crest of the skyline, and the extent of visibility of each turbine would vary from place to place according to intervening vegetation, structures and landform, I consider that overall the turbines would constitute a highly prominent, almost dominant, element in the landscape. In addition, for eastbound users of the A44 for a further 1.5km or so west of Llanfihangel-Nant-Melan, including those halting at lay-bys at The Van and Forest Inn, the turbines would feature as prominent features attracting the eye on the Pentre Tump skyline ahead.
17. I recognise that road travellers are generally classified as visual receptors of low sensitivity. However, the A44 is a principal leisure route into Wales, recognised as having scenic value. Given this, and the volume of use as a principal route, I regard the effects of the development as perceived by users of the A44 as significant. This stretch of the A44 west of New Radnor through the Summergil Brook valley and past Forest Inn conveys a sense of drama, whether travelling west or east, with the steep valley sides enclosing the valley floor and extending the upland agrarian landform towards an untrammelled skyline and the upland heights beyond. The valley also contains the hamlet of Llanfihangel-Nant-Melan, which nestles on its floor close under the Pentre Tump ridgeline. The proposed turbines would constitute a highly prominent feature on the immediate skyline for users of the A44 and for residents of and those visiting Llanfihangel-Nant-Melan. I consider that they would be an unduly dominant and distracting addition to the landscape setting of the Summergil Brook valley and the hamlet, due to their scale, prominent skyline position and moving blades. They would significantly harm the present landscape attributes of the locality.

18. In addition, the proposed access track from the A44 onto the Pentre Tump ridge would be a significant new feature in the landscape. Whilst a number of existing tracks climb the valley slopes, including the access track from Lower House Farm to small masts part way up the hillside, the scale and engineered profile of the turbines access track, with its wider running surface to accommodate the large vehicles involved and elements of cutting and building-out from the hillside, would result in a correspondingly greater physical and visual impact upon the landscape. Although the constructional details and landscaping mitigation proposed would assist in reducing the impacts, I nevertheless conclude that the access track element of the development scheme would comprise a somewhat discordant new element across the largely unspoilt valley side, parts of which would be obvious from the A44 and which would be very evident to recreational users of the bridleways in this location.

19. The second main area of landscape and visual impact relates to the effect of the turbines on the character and the use and enjoyment of the upland areas in the locality. The site of the turbines is on an upland ridge fringing the elevated block of LCA R3 Aberedw Uplands. This is a large-scale landscape, characterised by hills merging to form an extensive plateau, broad sweeps of sky and a generally unenclosed and undefined landcover pattern. However, notwithstanding that the area has no national or local landscape designation, its scenic quality is evaluated as high. Although the elevation of the Pentre Tump Ridge, on which the turbines would stand, is exceeded by hills to the south and north, the site is prominently located in a range of views and vistas from different directions, with many upland recreational routes leading in the direction of, or having views of, the site. These routes include a number of publicised routes and routes used for pony trekking tours, including overnight stays at Llanfihangel-Nant-Melan.
20. Indeed, the evidence indicates a concentrated network of recreational routes onto and along the ridge on which the turbines would be located, and over the higher ground of Llanfihangel Hill / Caety Traylow to the south and Bryn y Maen to the west. For users of these routes the proposed turbines would be a persistent presence in the landscape for distances of up to 2.5km from the site, giving rise to a spectrum of effect in the landscape ranging from prominent, through dominant, to overpowering in the immediate vicinity of the turbines. To the north are upland recreational routes descending from the high ground of Radnor Forest, from where the turbines would appear as noticeable elements distracting from the extensive and otherwise unencumbered vista to the far horizon of Hay Bluff and the Black Mountains. Overall, I consider that the extent to which the proposed turbines would impose themselves upon the landscape experienced and perceived by users of the upland recreational routes, particularly the network of bridleways used by horse riders, represents a significant adverse effect.

21. The turbines would also be a noticeable skyline feature, at a range of about 5km, in the fine vista of the Radnorshire uplands obtained looking westwards from the Offas Dyke Path National Trail over Hergest Ridge. Although Natural England has not objected on grounds of impact on the Offa’s Dyke Path National Trail, and I accept that various man-made structures including other turbines may be visible from various parts of the trail, in this particular landscape context I consider that the turbines would detract from the current fine and untrammelled view of Welsh uplands afforded from the route over Hergest Ridge.

22. I consider that, notwithstanding the broad landscape characteristics pointed to by the Appellant in support of the case that the host landscape has the capacity to accommodate the proposed scheme, the qualities of simple, unencumbered upland landform, space and relative tranquillity would be significantly interrupted by the proposed turbines. Given the extensive network of recreational routes, both close to and further away, from which the turbines would be perceived as prominent, dominant or even overwhelming, and the level of sensitivity which users of these routes will have to the character of their surroundings, I conclude that the proposed development would have a seriously adverse effect on the character and appearance of this upland landscape and the amenity of its users.

23. A further matter arising from the relationship of the proposed development to rights of way is the development’s effect on the use and enjoyment of the public rights of way network. In addition to the effect of the turbines on the appreciation of the upland landscape from the various recreational routes referred to above, the proposed development would have impacts on usage of bridleways in the immediate vicinity of the development. Existing bridleways pass 145m from the indicated location of turbine T3 (route 1264) and 150m from the indicated location of turbine T1 (route 1262). Annex C of TAN 8 refers to a British Horse Society (BHS) suggestion of a 200m exclusion zone either side of bridleways in order to avoid turbines frightening horses. TAN 8 notes that this is not a statutory requirement and the circumstances pertaining at any particular site should be taken into account. At the hearing I was informed that the current BHS guidance recommendation is for an exclusion distance of three times the turbine height (in this case, 310m), although TAN 8 remains as before.
24. Given the evidence suggesting regular usage of bridleway routes 1262 and 1264 past the proposed turbine locations I consider that this is a significant issue. The submitted unilateral undertaking makes provision for new lengths of permissive bridleway to be created, allowing riders to divert from the existing bridleways so that it would not be necessary to ride closer than 252m from turbine T3 and 275m from turbine T1. Whilst I consider that the resulting separation distances if using these routes as an alternative would be likely to be broadly acceptable, it would nonetheless entail an artificial and somewhat convoluted diversion away from the historically used route past Llanwentre Pool and then along the natural line east of Foice Farm around Pentre Tump. Such disruption would dilute the connection between receptor and the historical line of the bridleway route, which is integral to the experience and enjoyment of the landscape. Even though the proposed permissive bridleway measures would create a feasible alternative, I consider that the enforced diversion, for those riders who feel that the turbines would render the existing bridleway route unfeasible or inadvisable, weighs against the proposed development. Moreover, whether using the proposed permissive bridleway sections or not, riders using the rights of way hereabouts would find their experience and enjoyment of the landscape heavily altered, and in my view compromised, by the presence of the turbines.

25. For bridleway users passing between Lower House and Pentre Tump ridge there would be inconvenience and disruption to normal usage of the right of way during the development construction phase. This would manifest itself first in the enforced use of the proposed temporary diversion; in addition, the initial bridleway length from the A44 would evidently be shared with construction traffic during this period. Second, even though bridleway users would be segregated from the line of the new access road during the construction phase, there would plainly be disturbance and loss of amenity for bridleway users, from the nearby physical construction of the new track up the hillside and then from the track’s use by turbine construction traffic. I accept that these effects would be short-term. However, and longer-term, the physical changes to landform and surface arising from the construction of the new site access road would alter radically the bridleway experience for users of routes 1249/1248 following the construction phase. These adverse effects, whilst not determinative by themselves, weigh in the balance against the proposal.

26. Whilst I accept that the provisions of the unilateral obligation provide a technically workable solution to bridleway access issues, I nonetheless consider that the new arrangements put forward would represent a poorer state of affairs for users of this significant part of the bridleway network. The financial provisions for signage and other rights of way improvements and the undertaking to provide if required a permissive path people to pass closer to the turbines if they wish are not matters, in my view, which adequately offset the harmful effects I have identified. Overall, I consider that the provisions of the unilateral undertaking do not overcome the harm to amenity which would result from the proposed development. Moreover, the fact that such extensive measures are put forward in an attempt to provide mitigation only emphasises the significant discord between the scheme’s characteristics and the pattern and nature of recreational activity and enjoyment of the landscape which takes place.
27. I have considered the cumulative visual effects of the proposal when considered in conjunction with other existing and pending schemes. The ES focuses in this regard primarily upon the Reeves Hill proposal, located over 15km away to the south-east of Knighton. I do not consider that significant cumulative effects would arise in conjunction with the Reeves Hill scheme or other existing / pending developments which I have been informed about.

28. The Council’s stated reasons for refusing permission included reference to the visual effects of the proposal in relation to landscapes, parks and gardens of special historic interest. However, the Council has subsequently withdrawn this element of its objection to the proposal, in the light of the supplementary environmental information submitted by the appellant assessing the likely effects in relation to the registered historic parkland at Evancoyd. I agree that the submitted evidence demonstrates that the proposal would have no materially harmful consequences in these terms.

29. Having regard to the comprehensive residential amenity assessment undertaken by the appellant I am largely satisfied on the basis of this evidence and my own observations that the visual effects of the turbines would not be so great as to unacceptably harm individual living conditions at any particular property. However, I qualify this conclusion in relation to The Folly, whose sole principal aspect of both house and garden is directly across the valley towards the section of the ridge on which the turbines would stand. Notwithstanding that the nearest turbine would be about 1100m from The Folly, I consider that there would be a significant and adverse visual effect for its occupiers, arising from the presence of the turbines as large, distracting and incongruous moving objects occupying a large part of the unencumbered skyline faced by the dwelling’s principal elevation. To my mind there would be some harm to living conditions in relation to this dwelling, which, although not decisive by itself, weighs in the balance against the proposed development.

30. I have also considered other aspects of the development. I am satisfied that the additional evidence submitted demonstrates that the traffic implications of the development for the highway network, including the transportation of abnormal indivisible loads (AILs) via appropriate routing options, can be managed so as to avoid significant adverse impacts. Despite certain discrepancies in the submitted documentation, which were discussed and corrected during the hearing, I am satisfied that an adequate vehicular access layout, capable of accepting AILs of the size which the development would generate, could be achieved at the proposed access point onto the A44. The Council has withdrawn its initial reference to these matters in its decision notice on the application.
31. I note that the Transport Assessment includes no allowance for vehicle movements to and from the site associated with the formation of the access track, on the basis that material excavated in order to achieve a suitable running surface will be re-used and the amounts of cut and fill are considered to be likely to broadly balance out. However, there can be no certainty that the excavated material would be of an appropriate quality to create a suitable load-bearing stoned surface of the required width; in addition, cross-sectional drawing C585/30 indicates an excess of fill over cut material amounting to 1705m$^3$. This suggests that considerable quantities of aggregate would need to be brought to the site in order to construct the proposed access road to the required standard. In addition, the time needed to form the access track to the top of the ridge, which would be needed before creation of the construction compound could occur, does not appear to be adequately accounted for. All in all, I consider it likely that the access track element of the construction phase would cause more disruption and disturbance, over a greater time period, than the submitted information suggests. This adds to my concerns as regards the overall merits and sustainability credentials of the proposed scheme.

**Balancing of scheme effects against renewable energy contribution**

32. International inter-governmental, UK and Welsh Government policy actively promotes renewable energy generation as a key means of mitigating the impacts of climate change and advancing sustainable development objectives. There is a clear requirement on the UK Government to meet a target of 15% of energy coming from renewable sources by 2020. Binding greenhouse gas and CO$_2$ emission reduction targets in the Climate Change Act 2008, the 2009 UK Renewable Energy Strategy and subsequent ongoing Government pronouncements further underline the UK Government impetus towards increased renewable energy production.

33. In Wales, successive energy policy documents (Renewable Energy Routemap for Wales 2008; One Wales: One Planet 2009; Climate Change Strategy for Wales 2010; Energy Wales: A Low Carbon Transition 2012) underline the emphasis on delivering renewable energy deployment in Wales.

34. Translated into Welsh Government planning policy, PPW5 affirms the need to move towards a low carbon economy, including by facilitating the delivery of new and more sustainable forms of energy provision at all scales. It reiterates the UK target of 15% of energy from renewables by 2020. TAN 8 outlines the Welsh Government’s target of 7TWh of electricity per annum to be produced by renewable energy by 2020. It identifies a requirement (at 2005) of 800MW of additional installed capacity from onshore wind sources in order to meet this target.

35. TAN 8 plainly indicates, in principle, a positive stance towards schemes of up to 5MW installed capacity in areas outside the Strategic Search Areas and not subject to statutory landscape protection designations. I give significant weight to the fact that the proposed scheme falls within these broad parameters and that it would contribute 4.5MW of installed energy generating capacity from a renewable source, thereby assisting in the pressing need to move towards a low carbon economy and meet renewable energy production commitments.
36. However, there is a balance to be struck between the desirability of renewable energy and landscape protection. I am mindful that TAN 8 indicates that that balance should not result in severe restriction on the development of wind power capacity. Nonetheless, I have reached the conclusion in this case that the landscape and visual impacts associated with the scheme would be unacceptably adverse, due to its effects on this section of the A44 and the hamlet of Llanfihangel-Nant-Melan and on recreational routes in the area, particularly the bridleway network. These matters lead me to conclude that the proposed development would unacceptably adversely affect the environmental and landscape quality of Powys, and would unacceptably adversely affect the enjoyment of the public rights of way network, especially bridleways, thereby rendering the proposal contrary to policy E3 of the Powys UDP. Overall, I conclude that the adverse landscape and visual consequences of the development are of such severity as to outweigh the factors and policy considerations concerning renewable energy provision which weigh in favour of the proposed development.

Other matters

37. I have considered all other matters raised. On the evidence submitted I am satisfied that significant adverse effects on residential living conditions in terms of noise or shadow flicker would be highly unlikely; and that in any event conditions could be imposed which would enable any significant adverse effects in these terms to be remedied. In relation to Foice Farm, I consider that the likelihood of ice throw from the turbine blades posing a hazard would be so low as to render this consideration insignificant; nor do I find any substantive evidence which leads me to conclude that there would be significantly adverse consequences for the kennels business operating here.

38. I am satisfied that an adequate vehicular access onto the A44 could be provided; that adequate arrangements could be made for the transportation of turbine components along the highway network, and that negotiation of the route proposed onto the Pentre Tump ridge by the vehicles associated with the development would be feasible. I also accept that, subject to appropriate conditions, ecological and archaeological considerations could be satisfactorily addressed, and pollution / groundwater quality issues dealt with.

39. However, neither the acceptability of the scheme in terms of these matters nor any other matters put forward alter my overall conclusions.

Overall Conclusions

40. I conclude that the factors and policy considerations in favour of the scheme concerning energy provision from low-carbon renewable sources are outweighed in this case by the adverse effects of the development on the character and appearance of the landscape and its consequences in these terms for amenity. The proposed development would unacceptably adversely affect the environmental and landscape quality of Powys, and would unacceptably adversely affect the enjoyment of the public rights of way network, especially bridleways, thereby rendering the proposal contrary to policy E3 of the Powys UDP. Considerations do not exist such as to indicate a decision otherwise than in accordance with the development plan.
41. Having considered all matters raised, I conclude that the appeal should be dismissed.

Alwyn B Nixon

Inspector
APPEARANCES

FOR THE APPELLANT:

John Houghton (Solicitor) Bond Dickinson LLP
Paul Burrell MRTPi Pegasus Group (Planning evidence)
Andrew Cook BA(Hons) MLD CMLI MIEMA CEnv Pegasus Group (Landscape and visual evidence)
Simon Tucker BSc(Hons) MCIHT David Tucker Assocs (Transportation evidence)

FOR THE LOCAL PLANNING AUTHORITY:

Colin Edwards (Solicitor) Powys County Council
Gwilym Davies BSc(Hons) MSc MRTPI Principal Planning Officer, Powys County Council
John Campion BA(Hons) BLD MSc CMLI MCIEEM Anthony Jellard Associates (Landscape and visual evidence – statement commissioned by Natural Resources Wales)

INTERESTED PERSONS:

Geoffrey Sinclair, for Save Our Scenery Radnorshire Environment Information Services
Sarah Bond Save Our Scenery Radnorshire
Andrew Foster Local Resident
Nigel Dodman New Radnor Community Council
Marjorie Robinson Local Resident
Michael Mosse British Horse Society
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