

## **Children and Families Committee**

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| <b>Date of Meeting:</b>     | 12 July 2021                                                                                                |
| <b>Report Title:</b>        | <u>School Organisation</u> : Proposal for the provision of a new primary school, Kingsley Fields, Nantwich. |
| <b>Report of:</b>           | Ged Rowney, Interim Director Children's Services                                                            |
| <b>Report Reference No:</b> | CF/01/21                                                                                                    |
| <b>Ward(s) Affected:</b>    | Nantwich North and West<br>Nantwich South and Stapeley<br>Willaston and Rope                                |

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### **1. Executive Summary**

- 1.1** As the Strategic Commissioner of School Places, Cheshire East Council has a statutory duty to ensure a sufficiency of school places for children resident in its area and a commitment to allow local children to attend their local school wherever possible.
- 1.2** Pupil projections, taking into account the phasing of the new development on the site and the Nantwich Town planning area shows a shortfall of places, additional places will need to be offered as from September 2024.
- 1.3** The data analysis indicates the need for additional school places, Reception to Year 6, as a result of the development at Kingsley Fields, Nantwich. These additional places would be provided by the establishment of a new 1 Form of Entry Primary School (with the option for a 30 Place Nursery), opening in September 2024.
- 1.4** In the draft Medium-Term Financial Strategy (MTFS) for the Nantwich Planning Area, £3.5m is allocated to this project within the Children & Families Capital Programme. This was approved by Council on 17 February 2021.

- 1.5 A Section 106 agreement is in place, this includes funding contributions from the housing developers of £2.27m to help fund the build of a new 1 Form of Entry (FE) Primary school in the area. As part of the supporting infrastructure a site has also been secured via the Section 106 agreement which is allocated to provide a 1FE primary school.
- 1.6 This report requests approval to proceed with undertaking the Free school presumption process to identify and obtain agreement for a new school sponsor under section 6A of the Education and Inspections Act 2006. For information regarding the Free school presumption process please see sections 6.6, 7.1 and the Background papers link - DfE Free School Presumption Policy, November 2019.
- 1.7 The establishment of the new primary school will help deliver the council's strategic plans for the provision of school places and ensure there is access to good quality schools within the Nantwich area, particularly to ensure that the demand from new housing can be met.
- 1.8 This proposal incorporates elements of the Corporate Plan 2021- 2025 in that it will support all children to have the best start in life, increase opportunities for all children and young adults with additional needs, ensure all children have a high quality, enjoyable education that enables them to achieve their full potential.
- 1.9 The service has already met with Department for Education (DfE) officials to ensure that compliance with national processes is achieved; these meetings will continue as different stages are reached prior to actual opening of the school.

## **2. Recommendations**

That committee gives approval:

- 2.1. to proceed with the free school presumption process which will include undertaking a consultation with the local community, local schools, local councillors, town council and local MP. This is not the formal statutory consultation which sponsors are required to undertake.
- 2.2. to proceed with the transfer of the proposed school site into the Council ownership, as detailed in the Section 106 agreement, together with any other agreements associated with or ancillary to the transfer.
- 2.3. to progress with the process of attracting potential sponsors to run the new school and to complete any agreements or land transfers associated with appointing a suitable sponsor. Ultimately, the Secretary of State will approve the sponsor following due process.

### 3. Reasons for Recommendations

- 3.1. This recommendation is made on the basis of the pupil forecasts for Nantwich town planning area for September 2024 and to ensure that Cheshire East Council meets its statutory duty to provide school places for children in their community.
- 3.2. Current forecasts, for years Reception to Year 6 and covering the period 2021 to 2025 indicate an immediate shortage of primary school places in 2021 increasing year on year to indicate a shortfall of 65 places by 2025. These figures do include additional pupils anticipated from new housing in the area, including a proportion of pupils from the Kingsley Fields development. These figures do not include the desired 2% level of operational surplus, which is intended to facilitate admissions mid-year, some degree of parental choice and reasonable journey times to school.
- 3.3. Table 1 below shows the increasing shortfall in places in the Nantwich Town Planning area for this forecasting period: -

| Year | Nantwich Town Planning Area – Pupil Forecasts |      |      |      |      | Nantwich Town Planning Area – Pupil Forecasts Shortfall/ Surplus Without 2% operational surplus |      |      |      |      |
|------|-----------------------------------------------|------|------|------|------|-------------------------------------------------------------------------------------------------|------|------|------|------|
|      | 2021                                          | 2022 | 2023 | 2024 | 2025 | 2021                                                                                            | 2022 | 2023 | 2024 | 2025 |
|      | 1842                                          | 1859 | 1864 | 1877 | 1902 | -5                                                                                              | -22  | -27  | -40  | -65  |

Table 1 - Data source 2021 pupil forecasts

- 3.4. Table 2 below shows the increasing shortfall in places in the Nantwich Town Planning area for this forecasting period with the desired 2% level of operational surplus.

| Year | Nantwich Town Planning Area – Pupil Forecasts |      |      |      |      | Nantwich Town Planning Area – Pupil Forecasts Shortfall/ Surplus - With 2% operational surplus which equates to 37 pupils |      |      |      |      |
|------|-----------------------------------------------|------|------|------|------|---------------------------------------------------------------------------------------------------------------------------|------|------|------|------|
|      | 2021                                          | 2022 | 2023 | 2024 | 2025 | 2021                                                                                                                      | 2022 | 2023 | 2024 | 2025 |
|      | 1842                                          | 1859 | 1864 | 1877 | 1902 | -42                                                                                                                       | -59  | -64  | -77  | -102 |

Table 2 - Data source 2021 pupil forecasts

- 3.5. To allow the Service/Directorate to ensure there is a reasonable timescale to implement the necessary statutory processes, procurement, and planning to deliver the new school in readiness for September 2024.
- 3.6. To ensure that the local authority has the right number of school places for all children to have a good local school to attend, and all children enjoy the best education which prepares them to thrive in adulthood.

### 4. Other Options Considered

- 4.1. The Council has undertaken a detailed analysis of the named schools in the planning area and concluded that none of the existing schools within

the vicinity are suitable to accommodate the children (210 primary pupils) expected to arise from the development at Kingsley Fields.

- 4.2. Table 3 below shows the pupil forecast for the primary schools within this planning area:

| School                           | Net Cap      | 2021         | 2022         | 2023         | 2024         | 2025         | 2021      | 2022       | 2023       | 2024       | 2025       |
|----------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|-----------|------------|------------|------------|------------|
| Acton CofE Primary               | 175          | 186          | 208          | 216          | 227          | 242          | -11       | -33        | -41        | -52        | -67        |
| Highfields Primary               | 210          | 213          | 213          | 213          | 212          | 213          | -3        | -3         | -3         | -2         | -3         |
| Millfields Primary               | 210          | 206          | 206          | 206          | 206          | 208          | 4         | 4          | 4          | 4          | 2          |
| Nantwich Primary Academy         | 196          | 164          | 160          | 155          | 153          | 157          | 32        | 36         | 41         | 43         | 39         |
| Pear Tree Primary                | 210          | 216          | 214          | 212          | 210          | 210          | -6        | -4         | -2         | 0          | 0          |
| St Anne's Catholic Primary       | 210          | 202          | 200          | 203          | 200          | 203          | 8         | 10         | 7          | 10         | 7          |
| Stapeley Broad Lane CofE Primary | 206          | 219          | 215          | 215          | 220          | 226          | -13       | -9         | -9         | -14        | -20        |
| Weaver Primary                   | 210          | 206          | 205          | 206          | 212          | 211          | 4         | 5          | 4          | -2         | -1         |
| Willaston Primary Academy        | 210          | 229          | 237          | 239          | 236          | 232          | -19       | -27        | -29        | -26        | -22        |
|                                  | <b>1,837</b> | <b>1,842</b> | <b>1,859</b> | <b>1,864</b> | <b>1,877</b> | <b>1,902</b> | <b>-5</b> | <b>-22</b> | <b>-27</b> | <b>-40</b> | <b>-65</b> |

Table 3 - data Source 2021 Pupil Forecasts

- 4.3. Of the schools on the above table only Millfields, Nantwich Academy and St Anne's Catholic Primary are within 2 miles of the furthest point in the development, also when we undertook the expansion assessment prior to serving notice on the developers, St Anne's was ruled out as unsuitable for expansion due to the location of a nearby level crossing which impacted on available walking routes to the school.
- 4.4. Acton is the catchment school for the new development at Kingsley Fields but is 2.02 miles from the furthest point within the development and due to site restraints was also ruled out as an expansion site.
- 4.5. In table 3, Nantwich Academy is showing surplus places, if we delay the build of the new school, we may get the scenario that parents will attend Nantwich Academy initially but then potentially relocate their child once the new school is built, this is not sustainable and could create long term problems for the school.
- 4.6. In addition to the Nantwich Schools included within the assessment in 2018 we undertook a consultation regarding a possible expansion of Stapeley Broad Lane Primary School. The consultation received significant negative feedback with the biggest concern being traffic and highway safety. A full traffic assessment was commissioned to assess the impact an expansion at the school would have on the local highway network. It was concluded that the increased vehicle trips generated by the extra pupils which would result from the proposed expansion would have a negative impact on the operation of the highway network, and it was recommended that Stapeley Broad Lane Primary School was not expanded as a result of concerns that any expansion would have on the highway network.

## 5. Background

- 5.1. In 2017, CEC adopted their Local Plan for the period 2010-2030. The site known as “LPS 46 Kingsley Fields” was identified in the strategic development for Nantwich and the immediate surrounding area. This stated the following:

*“LPS 46, 3. The provision of a site for a new primary school within the development or financial contribution towards providing educational facilities.”*

- 5.2. The Kingsley Fields Development is a strategic site within the Cheshire East Council Local Plan for 1,100 new dwellings with the inclusion of a 1FE primary school.
- 5.3. The development is expected to have a significant impact on education provision in the local area. The Section 106 agreement secured the provision of a new primary school, which included the land and a contribution from the developers for the partial build costs.
- 5.4. Kingsley Fields is jointly owned by 3 housing developers, namely Taylor Wimpey, David Wilson Homes and Redrow. All 3 housing developers have now completed phase 1 which is approximately 180 dwellings and have contacted the service regarding the timescales for the delivery of the new school.
- 5.5. S106 contributions agreed are Primary Contribution of £2.27m and Secondary Contribution of £1.1m. The secondary contribution has been allocated to a scheme at Malbank High School. Primary Payment contributions were agreed within the section 106 on the following basis: -
- *25% on occupation of 100 dwellings – this trigger has been met and £604,922 has been received.*
  - *25% on occupation of 200 dwellings.*
  - *25% on occupation of 350 dwellings.*
  - *25% on occupation of 500 dwellings*
- 5.6. As per the S106 agreement the land allocated to the school will need to be transferred to the Council’s ownership. In the s106 agreement the Council has agreed to construct the school within two years of ownership being transferred to it. Therefore, it is key that we manage the land transfer process (including the undertaking of all necessary due diligence), start of the free school presumption process and the instruction to build the new school in a timely manner.
- 5.7. In line with the S106 agreement the Service served notice on the landowner to confirm there is a need for a new school and this was acknowledged by the developers in October 2018.

- 5.8.** The pupil numbers generated from this site have been consistently monitored as dwellings are built and become occupied. Current forecasts indicate places will be needed from September 2024.
- 5.9** This project is included in the Medium-Term Financial as approved by Council on 17 February 2021. In addition to this, details of the scheme have been shared with members of the Assets Board.

## **6. Consultation and Engagement**

- 6.1.** In accordance with the free school presumption departmental advice for local authorities and new school proposers issued by the Department for Education (November 2019) in order to open a new school the local authority must follow the free school presumption process.
- 6.2.** Before launching the competition to identify the sponsor to run the new school, we will undertake a consultation and engagement sessions.
- 6.3.** This is not the formal statutory consultation which sponsors are required to undertake under section 10 of the Academies Act 2010, which takes place during the pre-opening phase i.e. after the sponsor has been selected.
- 6.4.** As part of the consultation and engagement process the local authority will undertake the following:
- *A formal briefing with local Councillors*
  - *A presentation through the Primary Schools Association*
  - *A presentation and meeting with local schools*
  - *Information will made available on the Cheshire East website and during the representation period notified to key stakeholders including Ward Members, MP, Diocese, Town Council. Information will also be emailed to all local schools together with a letter for distribution to their staff, governors, and parents.*
  - *It is proposed that a public drop-in session will be held at Nantwich Library with representatives from the local authority in attendance to discuss the proposal and seek views from parents and the local community. Please note that this proposed public drop-in session will be subject to the limitations of COVID restrictions, and dependant on guidance at the time and may be held via an online presentation via CEC's website and an online feedback form.*
- 6.5.** Feedback gathered through consultation will be used to help formulate and finalise the local authority's specification for a new school before its publication inviting expressions of interest from sponsors.

**6.6.** The DfE Free school presumption process for proposing a new school significant has seven stages, as set out below:

|         |                                                                               |                                                                                                                                                                                                                                                                                                                                       |
|---------|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Stage 1 | Notification                                                                  | Notification to the DfE to trigger the process – this has been completed                                                                                                                                                                                                                                                              |
| Stage 2 | Informal Consultation                                                         | Consultation of the proposal with local schools, parents, carers, staff, pupils, school governors and trustees, Diocese representatives, local community, and ward members – Minimum of 4 weeks recommended. Feedback received will help formulate the specification for the school and complete the Equality Impact Assessment (EIA) |
| Stage 3 | Draft Specification                                                           | Draft specification and EIA submitted to DfE for approval                                                                                                                                                                                                                                                                             |
| Stage 4 | Formal Specification for the school published (In-line with DfE requirements) | Following DfE approval, LA and DfE publish the specification and invite potential sponsors to submit their applications. Recommended to allow 6-8 weeks but if time allows 12-14 weeks may be more appropriate                                                                                                                        |
| Stage 5 | Assessment Phase                                                              | The decision-maker (usually the LA) assesses/scores the applications, may invite potential sponsors for interview. This process is supported by the DfE regional leads.                                                                                                                                                               |
| Stage 6 | Sponsor Approval                                                              | The LA submits preferred sponsor to the Regional Schools Commissioner, which is taken to the Headteacher Board for approval.                                                                                                                                                                                                          |
| Stage 7 | Implementation, pre-opening.                                                  | LA and approved sponsor work together to ensure the school opens as per the specification.                                                                                                                                                                                                                                            |

## 7. Implications

### 7.1. Legal

**7.1.1.** The DfE advice and guidance states that the Free school presumption process is the main route by which local authorities establish new schools in order to meet the need for additional places, both in terms of basic need and the need for diverse provision within their areas. Local authorities are responsible for determining the specification for the new school and will fund and deliver the site and buildings and work with the approved sponsor to establish the school.



- 7.1.2.** All new schools established through the presumption process are classified as free schools. This reflects the fact that ‘free school’ is the department’s term for any new provision academy. ‘Academy’ is the legal term for state-funded schools that are independent of local authority control and receive their funding directly from the government. Schools established through the presumption process are not required to use the term ‘free school’ in their name: this follows practice within the department’s free school programme.
- 7.1.3.** The Education Act 2011 changed the arrangements for establishing new schools and introduced section 6A (the ‘free school presumption’) of the Education and Inspections Act 2006 which requires that, where a local authority identifies the need for a new school in its area, it must seek proposals to establish an academy (free school). Section 6A came into effect on:
- *1 February 2012 for new mainstream and special schools; and*
  - *1 September 2012 for new AP/alternative provision free schools.*
- 7.1.4.** The legislation that relates to this guidance includes:
- *The Education Act 2011 (EA 2011).*
  - *The Education and Inspections Act 2006 (EIA 2006).*
  - *The Academies Act 2010 (AA 2010).*
- 7.1.5.** Under the presumption route the local authority is responsible for providing the site for the new school and for delivering the capital programme for building the new school. It is the department’s expectation that the site be made available free or on a peppercorn basis by the local authority to the trust usually in the form of a long lease to the academy proprietor granted upon completion of the build. The local authority is also responsible for meeting the associated capital and pre/post-opening revenue costs.
- 7.1.6.** The decision on all new free school proposals lies with the Secretary of State. His approval is required as it is the Secretary of State who will enter into a funding agreement with the sponsor chosen to run the new school.
- 7.1.7.** The Secretary of State will consider any recommendation on the choice of a proposer made by the local authority. However, in some cases the Secretary of State may have additional information about the capacity, capability or the academic track record of a proposer which he will take into account when making his decision. In reaching his decision the Secretary of State will also have regard to quality and the diversity of the existing local provision, the ability of the proposed sponsor to redress social disadvantage, as well as to improve educational standards in an area.



**7.1.8.** The Secretary of State's decision is normally delegated to the Regional Schools Commissioner (RSC) for the area in which the school will be located.

## **7.2. Finance**

**7.2.1.** Included in the Education and 14-19 Skills Capital Programme is a named scheme 'New School Nantwich', with a total approved budget of £3.5m.

**7.2.2.** The proposed new school is currently funded via Section 106 contributions and Basic Need Grant. Section 106 education funding contributions are those agreed with new housing developers specifically to fund the additional pupil places needed due to new housing development this is received in stages over many years.

**7.2.3.** The funding profile is as follows:

- £2.27m Section 106 contributions agreed.
- £1.23m Basic Need

**7.2.4.** The project will be forwarded funded by Basic need, this will be replenished as the Section 106 contributions are received.

**7.2.5.** At this stage a provisional budget of £3.5 million inclusive of all professional and statutory fees has been allocated to the project. Design development will be commissioned to identify more accurately the costs of implementation of a standard 1FE primary school in-line with BB103 requirements and the DfE's standardised design principles.

**7.2.6.** Revenue funding for schools is provided through the schools' block of the dedicated schools grant.

**7.2.7.** The new and growing school will be funded through the schools funding formula in place at the time and in line with the relevant minimum per pupil funding levels.

**7.2.8.** Consideration will need to be given as to how a growing school is treated in terms of the number of the pupils the Council's receives funding for and expectations at the school in terms of year group sizes / timing.

**7.2.9.** If a local growth fund is still in operation, the school may qualify for a payment in recognition of pupil growth but that will have to be judged against the basis for core funding rather than October to October census changes.

**7.2.10.** The school will be expected to set a balanced budget within the funding provided and taking into account any other funding sources such as pupil premium.

## **7.3. Policy**

**7.3.1.** The provision of the new school will support the Council in meeting its statutory duty to provide sufficient school places.

**7.3.2.** The Local Authority will determine the Published Admission Number (PAN) from pupils for year groups Reception to Year 6, in line with the statutory timescales set out in the School Admissions Code (2021) The total capacity of the school will be 210 Primary aged pupils (with the option for a 30 place nursery provision for pupils aged 2 to 4). Standard PAN will be 30 per year group. The new school may open in stages, this will be agreed following appointment of the sponsor. The preferred option would be that the Admissions Arrangements were broadly in line with the Local Authority Admissions Arrangements for Community and Voluntary Controlled Schools. The Local Authority would propose a preferred catchment area taking into account catchment areas for neighbouring schools, impact on admissions to both Primary and Secondary Schools and transport. Any Admissions Arrangements would be implemented under the appropriate process and consultation under the School Admissions Code. If the sponsor had alternative preferred oversubscription criteria (for example to allow consistency with other schools in the same Trust) the local authority would be willing to work with the sponsor but the expectation would be that the criteria would serve to meet the needs of the local families so the Local Authority may object to criteria that conflicted with this purpose.

#### **7.4. Equality**

- 7.4.1.** An Equality Impact Assessment will be completed for this proposal.
- 7.4.2.** As part of the planning process for new school local authority must undertake an assessment of the impact of the proposal both with existing educational institutions locally and in terms of impact on groups of pupils from an equalities perspective.
- 7.4.3.** For the Secretary of state to meet his duties under section 9 of the Academies Act 2010 and under section 149 of the Equality Act 2010, local authorities should provide the Secretary of State (SOS) with a copy of their assessment.

#### **7.5. Human Resources**

- 7.5.1.** There are no additional human resource implications for the Council.
- 7.5.2.** Any new establishment will open as a free school and HR responsibility will be with the successful sponsor which arise as part of the project.

#### **7.6. Risk Management**

- 7.6.1.** The proposed new school has been identified to address a Basic Need requirement for primary school places within Nantwich as a result of a new housing development. Provision of this new school will ensure that the Council meets its statutory duty to provide sufficient school places within 2 miles and within a safe walking route.

- 7.6.2. If additional places are not provided in Nantwich parents of Cheshire East children, who are resident in the Nantwich area, may be unable to secure places at their local school and may be required to travel over 2 miles to alternative Cheshire East schools requiring transport assistance.
- 7.6.3. Should the proposal be approved the building of the new school will be subject to the necessary planning permissions. As the required building would be deemed to be land within the development allocated for education this would not be a change of use that requires consent from the Secretary of State for Education under section 77 of the School Standards and Framework Act and approval from the school.
- 7.6.4. Legal has advised that the Assets team will seek a title report in respect of the land which has been allocated by the developer and that it would be prudent for searches, surveys and investigations to be carried out so as to ascertain the availability of necessary services and access to be required at the site prior to acceptance of the transfer.
- 7.6.5. All the building works will be planned carefully and contractors will work with the Project Team to ensure that works are scheduled to keep disruption to a minimum for residents on the development. If projected costs come in higher/increase, there would be a need to undertake a value engineering exercise and assess increased costs against wider budgetary needs.

## **7.7. Rural Communities**

- 7.7.1. There are no direct implications for rural communities. A new school within a new housing development will assist with reducing traffic around rural areas as the children from this development can attend their local school rather than travelling by car.
- 7.7.2. The new school will provide the required places for the pupils from the development, limiting the impact on smaller rural schools and enabling such schools to retain their rural character and not have to expand

## **7.8. Children and Young People/Cared for Children**

- 7.8.1. Nantwich is an area that has consistently experienced a number of “in year” applications from families moving into Cheshire East.
- 7.8.2. Providing additional places at this new school will help ensure that local children, including cared for children, can be offered a place at their local school.
- 7.8.3. We have had families moving in to the Nantwich area where we have been unable to offer a place at a local preference school and there has been only one school with a vacancy in the relevant year group or it has been difficult to accommodate siblings within the same school. As a result, some families have chosen to send their children to schools outside the immediate Nantwich area. An increase in capacity in the

Nantwich area would provide more places for families moving into the area particularly outside the usual admissions rounds and reduce pressure on families in managing their child’s journey to school and help them settle into their local community.

**7.9. Public Health**

**7.9.1.** There are no direct implications for public health

**7.10. Climate Change**

**7.10.1.** The new build school would need to comply with the Governments targets of nearly zero carbon as outlined within the Building Regulations and the Councils own currently approved policies of achieving an BREEAM excellent accreditation or equivalent to achieve carbon neutral targets.

**7.10.2.** Providing additional places at this local school will enable Cheshire East children, resident in the Nantwich area and more so the new housing development, the ability to secure at place at their local school thus reducing the need to travel outside of the area which will reduce energy consumption and enabling pupils to walk to school promoting a healthy lifestyle.

**7.10.3.** CEC are very aware of their environmental education and stewardship role and are very interested in promoting sustainability in general.

**7.10.4.** It is noted that the funding is for a capital project and not for the ongoing running costs. Therefore, as part of the detailed design process, the design team are exploring how the building could be designed to minimize future running costs.

**7.10.5.** Systems that save on energy consumption will be considered, particularly for electricity, with absence detection being the preferred lighting strategy.

**7.10.6.** The building should be zoned for heating so when individual buildings or sections of buildings are opened for community use for example, the school can heat just that area.

**7.10.7.** Savings on water consumption will also be considered with WRAS (Water Regulations Advisory Scheme) certified.

| <b>Access to Information</b> |                                                                                                                                                                              |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
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| Appendices:                  | None                                                                                                                                                                         |

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| Background Papers: | <a href="#"><u>DfE Free School Presumption Process Policy November 2019</u></a><br><a href="#"><u>DfE Guidance – Schools Admissions Code</u></a><br><a href="#"><u>DfE Guidance – Disposal or change of use of playing field and school land</u></a><br><a href="#"><u>DfE Guidance BB103</u></a> |
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