

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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3 April 2014

NOTICE OF MEETING

A meeting of the **ENVIRONMENT, DEVELOPMENT AND INFRASTRUCTURE COMMITTEE** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **THURSDAY, 10 APRIL 2014 at 10:30 AM**, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **TERMS OF REFERENCE/DEVELOPMENT DAY**
Report by Executive Director – Customer Services (Pages 1 - 6)
4. **ROADS ASSET MANAGEMENT**
Presentation by Head of Roads and Amenity Services
5. **REST AND BE THANKFUL**
Report by Executive Director – Development and Infrastructure Services
(Pages 7 - 16)
6. **CAFE PAVEMENT LICENCES**
Report by Executive Director – Development and Infrastructure Services
(Pages 17 - 36)

ENVIRONMENT, DEVELOPMENT AND INFRASTRUCTURE COMMITTEE

Councillor Louise Glen-Lee
Councillor David Kinniburgh
Councillor Iain MacDonald
Councillor Duncan MacIntyre
Councillor Donald MacMillan
Councillor Ellen Morton
Councillor Sandy Taylor
Councillor Dick Walsh

Councillor Anne Horn
Councillor Bruce Marshall
Councillor Alistair MacDougall
Councillor Robert Graham MacIntyre
Councillor Alex McNaughton
Councillor Elaine Robertson
Councillor Richard Trail

Contact: Hazel MacInnes Tel: 01546 604269

ARGYLL AND BUTE COUNCIL**ENVIRONMENT, DEVELOPMENT
AND INFRASTRUCTURE
COMMITTEE****CUSTOMER SERVICES****10 APRIL 2014**

TERMS OF REFERENCE / DEVELOPMENT DAY

1. SUMMARY

- 1.1 The Committee is invited to note the draft terms of reference for the Environment, Development and Infrastructure Committee which will be presented to Council for incorporation into a revised Constitution and Standing Orders in April 2014.
- 1.2 The report also sets out proposals on the content of a development day for the Committee and seeks Members views in this regard.

2. RECOMMENDATIONS

- 2.1 It is recommended that the Committee
 - a) notes the draft terms of reference which will be presented to Council for incorporation into a revised Constitution and Standing Orders in April 2014.
 - b) considers the proposed agenda for the Development Day and approves or amends the agenda accordingly.
 - c) identifies preferred dates for the Development Day

3. DETAIL

- 3.1 In January 2014 the Council considered a report and recommendations arising from the Short Life Working Group on Political Management Arrangements. It agreed to establish 3 new committees including the Environment, Development and Infrastructure (EDI) Committee with the following component parts:
 - Environment including Amenity Services, Carbon Management and Renewables
 - Development including advice to Policy and Resources on Economic Development Policy but excluding matters dealt with by PPSL
 - Infrastructure
 - Piers, Harbours and Roads

3.2 Council endorsed the amended structure and a revised programme of Council meetings was agreed whereby the EDI Committee would meet on a quarterly basis with dates as follows:

- Thursday 10th April 2014
- Thursday 14th August 2014
- Thursday 13th November 2014
- Thursday 15th January 2015
- Thursday 9th April 2015

3.3 The SLWG also considered proposals that each of the new committees would have a work programme linked to key strategic priorities and outcomes, the Single Outcome Agreement, Corporate and Community Plans and that a Policy Development and Overview progress report would be submitted from each Central Committee to the Policy and Resources Committee for noting every six months.

3.4.1 In considering the recommendations of the SLWG Council agreed to delegate power to the Executive Director of Customer Services to make the minor and consequential amendments to the Constitution as required by adoption of the new committee structures and associated arrangements. A report in this regard will be presented to Council in April 2014 and it is proposed that the Terms of Reference for the EDI Committee are as follows:

3.4.2 Community Services and Environment, Development and Infrastructure Committee

(1) Advise the Policy and Resources Committee and the Council in the development of service objectives, policies and plans concerned with service delivery within the functional areas noted below and manage performance.

(2) Monitor and review achievement of key outcomes in the Service Plans within the functional areas noted below by ensuring best value in the use of resources to achieve these key outcomes is met within a performance culture of continuous improvement and customer focus.

(3) Subject to the exclusions from and limitations of delegations set out in this scheme, and the terms of reference and authority of the Policy and Resources Committee, each Committee is authorised to discharge the powers and duties of the Council within the functional areas noted below in accordance with the policies of the Council, and the relevant provisions in its approved revenue and capital budgets.

(4) Undertake community engagement in terms of Council's community engagement strategy in respect of their service area.

3.4.3 Environment, Development and Infrastructure Committee

All of the functional areas within the development and infrastructure department not otherwise reserved to the Council , the Policy and Resources Committee or the Planning Protective Services and Licensing Committee including, without prejudice to the foregoing generality, the following:-

Economic Development

The relevant functional areas relating to strategic regeneration, development and transport planning, economy and business, energy, telecommunications, agriculture, fisheries, arts, culture and tourism.

Environment and Transport

The relevant function areas relating to the natural environment, roads transport, harbour and ferry services, building services and environmental services.

3.5 Development Day

As part of its response to the Accounts Commission Statutory Report Council also agreed at its meeting in January that there would be a Development Day for members of each new Committee to facilitate shared understanding of the key issues to be considered by each committee and to facilitate good governance. It was also agreed that each Committee would develop a work plan and forward agenda.

An outline programme is attached at Appendix 1 to facilitate this process. The purpose of the Development Day is to support Members in their role as a member of the EDI Committee, to give them background on the role and function of the Committee, to help them develop skills that allow the Committee to fulfil its role, to identify key issues for the Committee to consider and to plan out the work of the EDI Committee over the course of a year.

4. CONCLUSION

4.1 This reports sets out proposed terms of reference and an associated development plan for the EDI Committee. These seek to ensure clarity and sound governance arrangements are in place to support the work of the Committee and Members are invited to provide feedback on the proposed arrangements.

5. IMPLICATIONS

Policy -	Clarity on the role and function of the Committee is essential to Policy Development.
Financial –	None.
Legal -	None.
HR -	None.

Equalities -	These proposals have no adverse impact on equal opportunities
Risk -	Lack of clarity could impede effectiveness of Committee.
Customer Service -	None

Executive Director of Customer Services

For further information contact: Charles Reppke 01546 604137

**DRAFT AGENDA
ENVIRONMENT, DEVELOPMENT AND INFRASTRUCTURE COMMITTEE
DEVELOPMENT DAY
DAY AND DATE & VENUE TO BE CONFIRMED**

10.00 Welcome and introductions

10.15 Strategic Policy Context (60 mins)

- National Policy Framework
- Single Outcome Agreement
- External Partnerships
- Vision and Strategic Direction

11.15 Tea/Coffee

11.30 The Role of the EDI Committee (45 mins)

- What is the Committee seeking to achieve?
- What are the performance measures?
- How do you assess effectiveness?
- What level of engagement internal/external does there need to be?

12.15 Working with other Committees (45 mins)

- How does Committee work in conjunction with:
 - Council
 - Policy and Resources Committee
 - Communities Committee
 - PPSL
 - PRS
 - Audit
 - Area Committees
 - Community Planning

13.00 Lunch (45 mins)

13.45 The 2014-15 Committee Plan (45 mins)

- Approach to Policy Development
 - Environment including Amenity Services, Carbon Management and Renewables
 - Development including advice to Policy and Resources on Economic Development Policy but excluding matters dealt with by PPSL
 - Infrastructure
 - Piers, Harbours and Roads
 - Other areas of work

14.00 Working Together As The EDI Committee (45 mins)

- How do you operate?
- Collective responsibility to reach a view on effectiveness
- Your skills and your development needs

15.15 Tea/Coffee

15.30 A Year In the Life Of the EDI Committee (30 mins)

- What do you expect to see at each meeting?

April
November

August
January

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ARGYLL & BUTE COUNCIL**ENVIRONMENT, DEVELOPMENT AND
INFRASTRUCTURE COMMITTEE****DEVELOPMENT &
INFRASTRUCTURE SERVICES****10 APRIL 2014**

DISCUSSION PAPER – REST AND BE THANKFUL

1. SUMMARY

- 1.1 This report is a discussion paper for the Environment Development and Infrastructure Committee to enable a comprehensive response to be made to Scottish Government and Transport Scotland in relation to the A83.

2. RECOMMENDATION

- 2.1 Members are asked to note the report and:

- Agree to the Council facilitating a discussion with all appropriate interests/stakeholders in advance of the next Task Force meeting to get a solid and agreed position from Argyll and Bute.
- Agree the Elected Members who represent the Council at future Task Force meetings.

3. BACKGROUND

- 3.1 Following two recent events, one at Butterbridge between 23/02/14 and 24/02/14 and one on the Arrochar side of the Rest and be Thankful between 06/03/14 and 10/03/14: the Rest and be Thankful Task Force was recalled and met on Tuesday 18th March 2014. The March meeting was essentially a debrief on the mobilisation and use of the Old Military Road diversion and an update regarding the position to date.
- 3.2 The Task Group met on a number of occasions previously. Through the Task Group Scottish Government made provision for the Old Military Road to be upgraded and to be used as a diversion route when the A83 is not available between the Rest and be Thankful and Ardgarton. Scottish Government has also committed to the provision of additional catch netting and other mitigating measures along the A83, some of which are under construction currently.
- 3.3 An A83 Marketing Group has been formed that feeds into the Task Force. Whilst the Marketing Group have carried out some excellent work which has been

complemented by the Council's in-house communications team it was disappointing to note that, during the recent landslide events, some national media broadcasts were publicising a 60 mile diversion route and effectively putting out a negative message. Further work is required to be done to ensure that all media outlets are making it clear that Argyll and Bute is open for business at all times, including when diversion routes are in place.

- 3.3 Jacobs carried out two studies on behalf of Scottish Government, study 1: http://www.transportscotland.gov.uk/files/A83_Trunk_Road_Route_Study_Report_Part_A_Final_.pdf considered a number of options at the Rest and be Thankful and study 2: http://www.transportscotland.gov.uk/files/A83_Trunk_Road_Route_Study_Report_Part_B_Final_.pdf (considered other emergency works on the A83 between Tarbet and Kennacraig. It is understood that Transport Scotland has extended the scope of the second study to incorporate the section of the A83 between Kennacraig and Campbeltown. This section of road is due to be Trunked in the coming weeks. Slides will be presented to the Committee on the day detailing the extent of works completed and the works outstanding.
- 3.4 Argyll and Bute Council considered a report (Appendix 1) at its January 2013 Council meeting. The Council decision is detailed at (Appendix 2). The Council's option at the January 2013 meeting was for the Green Option to be progressed.
- 3.6 It is proposed that the Council facilitates a discussion with all appropriate interests/stakeholders in advance of the next Task Force meeting to get a solid and agreed position from Argyll and Bute. This discussion to include: summary of the Council's position, open discussion with stakeholders, representations to the Task Force.

4. CONCLUSION

- 5.1 This report is a discussion paper for the Environment Development and Infrastructure Committee to enable a comprehensive response to be made to Scottish Government and Transport Scotland in relation to the A83.

6. IMPLICATIONS

- 6.1 Policy – Reliable access into and out of Argyll and Bute is essential for the economy of the area. The A83 forms a principal lifeline route.
- 6.2 Financial – Lifeline routes are essential to maintain the local economy.
- 6.3 Personnel – Not significant.
- 6.4 Equal Opportunities – Lifeline routes are essential for goods, services and transport links for all.
- 6.5 Legal – None known

7. APPENDIX:

- 1 – Council Report January 2013
- 2 – Extract of Minute from Council Meeting

Executive Director of Development and Infrastructure

March 2014

For further information contact: Jim Smith – Head of Roads and Amenity

ARGYLL & BUTE COUNCIL

COUNCIL

**DEVELOPMENT &
INFRASTRUCTURE SERVICES**

24 JANUARY 2013

TITLE: A83 TRUNK ROAD ROUTE STUDY

1. SUMMARY

- 1.1 This report summarises the report commissioned by Transport Scotland, regarding the A83. The study, completed by Jacobs, has been carried out in two parts. Part A – A83 Rest and Be Thankful and Part B – A83 Tarbet – Lochgilphead – Kennacraig. Transport Scotland’s team involved in producing the reports will be in attendance at the Council meeting on 24 January 2013 to give a short presentation.
- 1.2 The final report will be presented by Transport Scotland to the A83 Taskforce meeting due to be set for February/March 2013. Transport Scotland will then consider the next steps following feedback from the A83 Taskforce.
- 1.3 This report recommends the Council’s proposed formal response to Transport Scotland.

2. RECOMMENDATIONS

- 2.1 It is recommended that the Council responds to Transport Scotland as follows.

Argyll and Bute Council:

- a. Supports the proposed installations of the additional landslide mitigation measures as defined within the Red Corridor Option.
- b. Requests that Transport Scotland progress the installation of further landslide mitigation measures to reduce the likelihood and impact of a landslide at the hazard areas identified in 3.5 below.
- c. Requests that Transport Scotland progress the development of the Green Corridor Option to the next stage of the design process, involving detailed topographical, ground investigation surveys and Environmental Impact Assessments to provide a better understanding of cost, risk, environmental impact and deliverability.
- d. Requests that Transport Scotland review the current communications protocol by way of risk assessment for the “wig wag” warning signs with

the presumption that they are replaced with conventional fixed signage in accordance with 3.7 below.

3 DETAIL

- 3.1 The Jacobs study has been carried out in two parts. Part A – A83 Rest and Be Thankful and Part B – A83 Tarbet – Lochgilphead – Kennacraig. Summary drafts of the part A and part B reports were sent to all Members in December and are appended to this report.
- 3.2 Jacobs are seeking comments from all stakeholders regarding the Draft Reports. Stakeholder comments will be considered by Jacobs when they produce the final reports to Transport Scotland. A technical workshop was held on 18 January 2013. This meeting was attended by the Depute Council Leader, Lead Councillor for D&I and Head of Roads and Amenity Services. Transport Scotland will then consider the next steps following feedback from the A83 Taskforce.

Part A Report

- 3.3 The report considered a number of possible alternative routes, such as bridging Loch Long to meet the A815 and using various other glens north of the Rest to meet the A82. These options were considered as part of a desk based assessment. These have all been ruled out in the report and 6 further options (all using the same Glen Croe valley route) were considered in more detail using a ground model to determine initial horizontal and vertical alignment and historical survey data where available. Outline descriptions of all 6 options along with cost estimates ranges based on 2012 prices, excluding VAT are detailed below. The next stage of the design process, involving detailed topographical and ground investigation surveys and Environmental Impact Assessments would be required to enable a better understanding of cost, risk, environmental impact and deliverability for each of the options.
- (i) The **Red Corridor** maintains the existing alignment of the A83 and includes a range of landslide mitigation measures such as: additional 440 metres of debris flow barriers at locations where the landslide hazard is considered highest, improved hillside drainage adjacent to and under the road, and; introduction of vegetation and planting on the slope. This option would significantly reduce the frequency of occurrence of landslide debris reaching the A83 Trunk Road causing a full road closure and offers the potential for implementation in phases. It is not considered to have any significant environmental effects. The cost estimate for this option is in the range £9-10 million. This option will be one of the quicker options to implement although the vegetation and slope planting could take up to 25 – 30 years to become fully established.
 - (ii) The **Brown Corridor Option** closely follows the alignment of the existing A83 and involves the construction of a debris flow shelter over a length of 1km to protect the road and road users in the event of future debris flow events. With this option the likelihood of landslide debris reaching the road,

over the length of the debris flow shelter, would be negligible. The introduction of debris flow shelters could have impacts on the local landscape and views, although the significance of these impacts would depend on the appearance and extent of the shelters. The cost estimate for this option is in the range £105 – 120 million and there would be significant disruption during construction, including periods of full road closures

- (iii) The **Yellow Corridor Option** provides a new 1.5km single carriageway alignment offset slightly from the existing A83. Around 1.2km of the new alignment is constructed on viaduct following a similar profile to the existing road with an average climbing gradient of 5%. The viaduct structure would be set at a sufficient level to permit debris flow events to pass below the A83 and the likelihood of road closures due to landslides, over the length of the viaduct would be negligible. The introduction of a viaduct could have impacts on the local landscape and views, although the significance of these impacts would depend on the appearance of the viaduct and how well it is integrated with the surrounding landscape from a visual perspective. The cost estimate for this option is in the range £83 – 95 million.
- (iv) The **Purple and Blue Corridor Options** begin further down Glen Croe and generally run parallel to the Old Military Road until they reach the property at High Glencroe. The **Purple Corridor Option** continues northwards in tunnel and re-joins the existing A83 in the vicinity of Loch Restil. A short 600m single bore tunnel was initially considered, however the steep gradient of this design was considered unacceptable. A route alignment with a maximum gradient of 4% is considered feasible, resulting in a 1.9km twin bore tunnel. With this option, the likelihood of road closures due to landslides is considered to be negligible. Potentially significant environmental impacts are anticipated in relation to ecology, landscape and visual intrusion. The cost estimate for this option is in the range £460 – 520 million.
- (v) The **Blue Corridor Option** generally runs parallel to the Old Military Road and curves steeply at a maximum gradient of 8% around the top of the glen before joining the alignment of the green option which passes to the west of the Rest and Be Thankful car park and re-joins the existing road before Loch Restil. The road alignment of this option is below desirable minimum standards for a new Trunk Road and potentially significant environmental impacts are anticipated in relation to ecology, landscape and visual intrusion. With this option, the likelihood of road closure due to landslide is considered negligible. The cost estimate is in the range £66 – 75 million.
- (vi) The **Green Corridor Option** provides a new 4.0km single carriageway and follows the opposite side of the valley to the existing A83. While the alignment generally follows the line of existing forest tracks, significant engineering measures would be required to form a new single carriageway road on this hillside, including measures to reduce the landslide hazard in this corridor. The cost estimate range for the Green Option is £27 – 91million. This is a wide cost range and reflects a varying level of protection to landslide. At the low end of the cost range (£27 – 30million), without significant landslide protection measures, the route may be as susceptible to closure due to landslide as the existing A83. The higher end of the cost

range (£81 – 91 million) represents costs to provide a route where the likelihood of closure due to landslide is negligible (compared to the Brown and Yellow corridor options). This option may result in impacts on ecology and the local landscape and views, although the significance of these impacts would depend on the form and alignment of this route.

- 3.4 The report's conclusion is to recommend the Red Corridor Option which is the lowest cost option, can be deployed most quickly and can address the current risk level most expeditiously in the short term. This option proposes additional landslip preventative and mitigation measures such as netting along the existing route and will allow the A83 to remain open during construction. The cost of these works is estimated at £9-10m (the Red Corridor Option).
- 3.5 The preventative measures detailed in 3.3 (i) above are welcomed and will improve the reliability of this lifeline route into and out of Argyll and Bute. However, there is still risk of landslide closing the road along other sections of the A83 not protected (9 other locations on the A83 with a landslide hazard ranking classification of High/Very High covering a route length of around 31km have been identified) in particular Glen Kinglass, Cairndow, and Loch Shira. Actions to address the ground related hazards at these locations should be progressed to achieve comparable levels of risk reduction along the whole route.
- 3.6 There is also potential for the protected Red Route not being available should materials have to be removed from the netting following any landslide event. With this in mind it is recommended that the Council Requests that Transport Scotland progress the development of the Green Corridor Option to the next stage of the design process, involving detailed topographical, ground investigation surveys and Environmental Impact Assessments to provide a better understanding of cost, risk, environmental impact and deliverability for the Green Corridor Option. This would enable more informed consideration to be given to the Green Option being progressed.
- 3.7 The report commissioned by Transport Scotland confirms that the A83 route has been closed for an average of 5 ½ days per year based on the last 6 events, however the perception is different. There are numerous reports on traffic news bulletins stating there is an increased risk of landslide on the A83 from time to time. This reinforces the perception that "A83" and "Landslide" go together. There should be a more positive message given that Argyll and Bute is open and available for business. To assist with this it is suggested that through a risk assessment process consideration be given to the flashing warning signs being removed as these are considered to add to the negative message regarding the availability of the Rest and Be Thankful. It is proposed that these be replaced with conventional fixed signage. Should there be a high level of risk associated with landslide; this should be dealt with using the normal procedure, any road closures would be agreed between the Police and Transport Scotland.

Part B Report

- 3.8 The report examines the issues along the length of the A83 Trunk Road between Tarbet and Kennacraig and presents the results of the transport appraisal in

accordance with Scottish Transport Appraisal Guidance. The Part B report excludes consideration of landslide issues at the Rest and Be Thankful.

- 3.9 The report has considered 30 options put forward by stakeholders. These options have been reduced down to 13 options which have been assessed and tabulated in Appendix 2. The table presents the options in the following Themes: Pedestrian Measures, Minor Improvement Schemes, Measures to Improve Information, Safety Improvement Measures and Speed Control Measures. Each option has an estimated cost, a ranking ranging from major benefit to major negative impact and the potential delivery term (short, medium and long).

Trunking of A83 Kennacraig to Campbeltown

- 3.10 Following correspondence between the Depute Council Leader and Lead Councillor for D&I and Minister Keith Brown, a business case framework is being drawn up between officers of Development and Infrastructure and Transport Scotland to consider the Trunking of the A83 between Kennacraig and Campbeltown. This on-going work and future reports will be brought to Council to update on progress.

3.11

4 CONCLUSION

- 4.1 This is a covering report to Transport Scotland's reports regarding the A83. This report makes recommendations for the Councils formal response to Transport Scotland to the draft reports.

5 IMPLICATIONS

- | | |
|----------------|--|
| 5.1 Policy | Officers are in discussion with Transport Scotland regarding the potential to Trunk the A83 between Kennacraig and Campbeltown. Further updates will be provided. |
| 5.2 Financial | TS's report states that the additional annual costs to the A83 economy from previous landslide episodes at the Rest and Be Thankful are estimated to be £286,300 (in 2010 prices) for the road to being closed for 5 ½ days over the year (the average duration of the past six events). |
| 5.3 Legal | None |
| 5.4 HR | None |
| 5.5 Equalities | None |

5.6 Risk Risk to the economy as detailed in 5.2 above. Risk to the travelling public during a landslide event.

5.7 Customer Services None

Executive Director of Development and Infrastructure

January 2013

For further information contact: Jim Smith, Head of Roads and Amenity Services

Tel: 01546 604324

Appendix 2 – Extract of Minute from Council Meeting

**MINUTES of MEETING of ARGYLL AND BUTE COUNCIL held in the COUNCIL
CHAMBER, KILMORY,
LOCHGILPHEAD
on THURSDAY, 24 JANUARY 2013**

(d) A83 TRUNK ROAD ROUTE STUDY

The Council heard a presentation by Graham Edmund of Transport Scotland and Graeme Herd of the Jacob's team on the A83.

The Provost adjourned the meeting at 1.50pm and reconvened at 2.30pm.

Councillors Devon and MacDonald left the meeting at this point.

The Council considered a report which summarised the report commissioned by Transport Scotland, regarding the A83 and contained the Council's proposed formal response to Transport Scotland.

Decision

Agreed to delegate to the Executive Director of Development and Infrastructure in consultation with Councillors John Semple and Duncan MacIntyre to finalise the Council response to Transport Scotland.

(Ref: Report by Executive Director of Development and Infrastructure Services dated 24 January 2013, tabled)

ARGYLL & BUTE COUNCIL**ENVIRONMENT, DEVELOPMENT AND
INFRASTRUCTURE COMMITTEE****DEVELOPMENT &
INFRASTRUCTURE SERVICES****10 APRIL 2014**

GUIDANCE POLICY FOR USE OF PAVEMENTS – CAFÉ CULTURE

1. SUMMARY

- 1.1 This report is a covering report to a policy document that proposes guidance and rules for the occupation of areas of footways by Pavement Cafés and The Display of Goods for Sale in Argyll & Bute.

2. RECOMMENDATION

- 2.1 Members are asked to:

- Note and endorse the report.
- Approve that the Pavement Café Licence Policy be taken to the Policy and Resources Committee for approval as Council policy.
- Approve that in the interim, prior to the P&R committee that the policy is posted on the website seeking comments from stakeholders.

3. BACKGROUND

- 3.1 The demand for pavement cafés and display of goods is increasing across Argyll & Bute, in particular in the towns that have had public realm improvements.
- 3.2 There is a need to regularise and control the superficial use of public footways to ensure that the purpose of the footway, i.e. a pedestrian thoroughfare, is not compromised. There are many different users of footways with varied and sometimes conflicting needs. Visually impaired, wheel chair users, people pushing prams, small children, the elderly and individuals going about their day to day travels.
- 3.3 The Council has a number of responsibilities to all users of the public realm. As Roads Authority there is a liability to maintain safe and unhindered passage for all. As Planning Authority there is a liability to ensure that any development is appropriate and sensitive to its surroundings. As a licencing authority to ensure by-laws and liquor control is not infringed.

- 3.4 There is a desire to encourage “pavement café culture” in our town centres as it adds to the vibrancy of the townscape, provided it is done well. Displaying goods for sale can also add to the diversity and dynamics of town centres. There is a need to set limits and rules for what is acceptable and what is not.
- 3.5 Charges are applicable for obtaining the necessary consents that are required. Planning Approval is statutory and fee set nationally at £382 whilst a Pavement Café License cost £165 which is a Council controlled standard charge. This report proposes that the Pavement Café Licence fee of £165 shall be waived for the first year following the introduction of the policy. The proposal to waive this fee is to help stimulate economic activity and to actively promote an alternative culture which should add diversity to our towns.
- 3.6 Scottish Government is currently considering alterations to Permitted Development Rights which may mean in some scenarios ‘Pavement Cafés’ shall not require planning consent. The change in legislation is not likely to be enacted until late summer 2014 and shall only apply to Cafés / Restaurants where there remains 3 metres worth of unobstructed pavements. Public houses and larger pavement cafes will still require full planning consent.
- 3.7 It is proposed that this Policy is implemented by August 2014 with the Pavement Licence Fee being waived until August 2015 across the whole of Argyll and Bute. This will provide a transitional period allowing individual businesses time to adjust and work to the policy.
- 3.8 It is not intended that the policy would be applied to business premises such as fruit and veg businesses where a narrow display of goods is provided at the front of the building and where this does not impact on the free flow of pedestrian movements. Such examples are considered not to be significant and are out with the scope of this policy.
- 3.9 It is proposed that Members agree for the draft policy document being made available through the Council’s web site and that stakeholders are actively encouraged to comment on the draft policy. Any comments received are to be considered by the Policy and Resources Committee prior to approval of the policy document.

4. PROPOSALS

- 4.1 The attached document details the information required, the management rules, the application process and the costs involved in the application.

5. CONCLUSION

- 5.1 By setting out the Council’s position and a clear management strategy traders will be able to consider the viability, and practicality of considering setting up pavement cafés and external displays.

- 5.2 A uniform process will be in place across Argyll & Bute for management of pavement occupation by cafés and product displays.

6. IMPLICATIONS

- 6.1 Policy – Promotes management and control of occupation of areas of pavement for the benefit of the majority of users and can help town centre regeneration.
- 6.2 Financial – Can help with town centre regeneration. Direct income to the Council is negligible.
- 6.3 Personnel – Not significant.
- 6.4 Equal Opportunities – Policy ensures sufficient space is maintained for all pedestrian users.
- 6.5 Legal – regularises use of footways and avoids contravention of (Roads Scotland) Act 1984.

7. APPENDIX

Development And Infrastructure Services Guidance Policy For Use Of Pavements – Café Culture

Executive Director of Development and Infrastructure
March 2014

For further information contact: Jim Smith – Head of Roads and Amenity Services

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DEVELOPMENT AND INFRASTRUCTURE SERVICES GUIDANCE POLICY FOR USE OF PAVEMENTS – CAFÉ CULTURE

Authors	Bill Weston, Ross McLaughlin, Helen Ford and Susan Mair
Owner	Head of Roads and Amenity Services
Date	March 2014
Version	1.2

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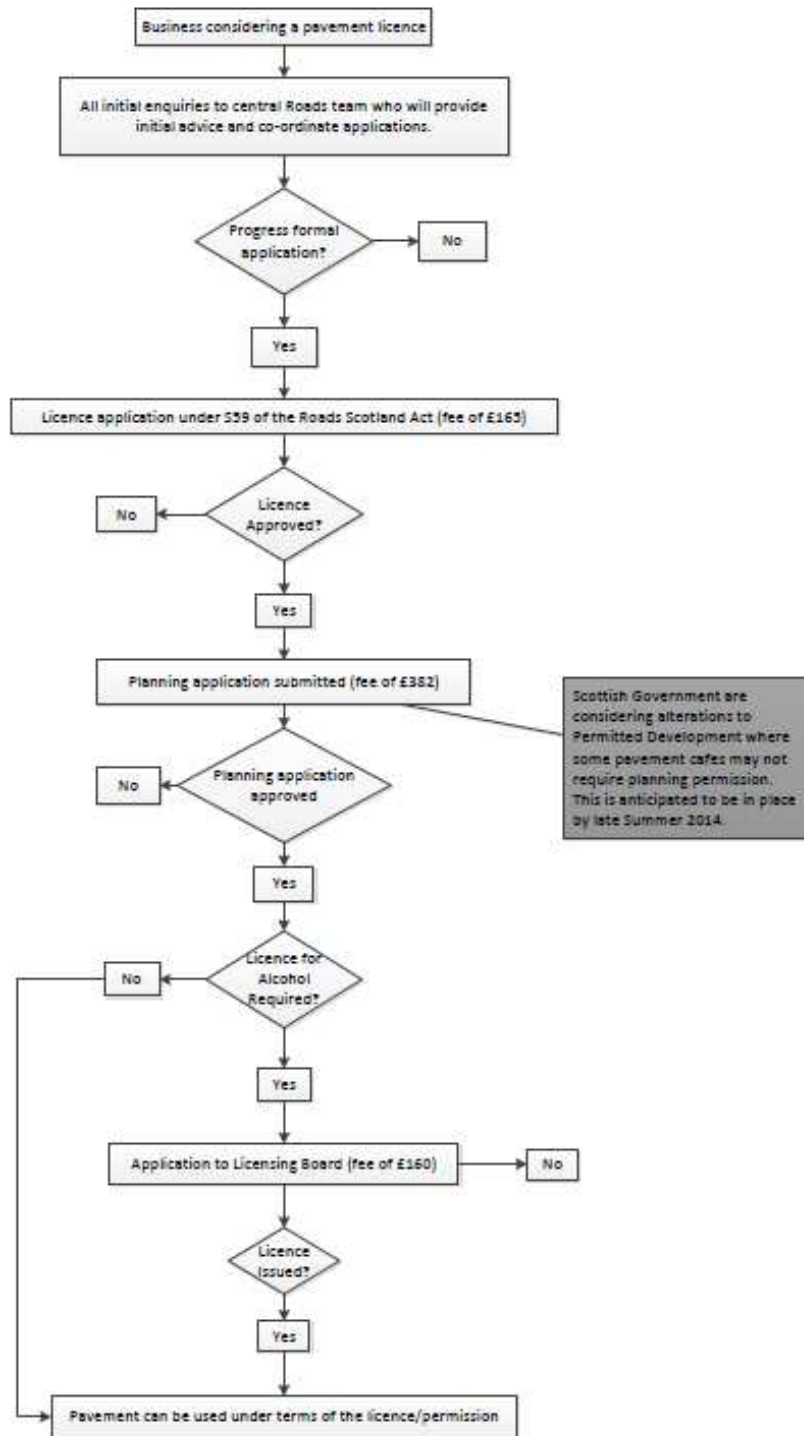
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INTRODUCTION

This policy has been developed holistically to enable consideration to be given to road/footway use, planning matters and licencing for establishments serving alcohol. The pre-application engagement has been designed to make the process as straight forward as possible for business seeking to provide facilities within open public areas.

This policy has also been designed with a view to encouraging economic activity and improving experience for residents and visitors alike.

GUIDANCE FOR USE OF PAVEMENTS



Guidance for Use of Pavements - Café Culture

Policy Context

The Council seeks to protect and enhance the vitality and viability of Argyll and Bute's town centres by working positively with retailers / traders and encouraging the development of a mix of retail and other related uses in our core shopping areas.

If appropriately managed, the provision of outdoor tables and chairs or display of goods on the pavement adjacent to shop fronts can add life and vibrancy and can be a real asset to a town centre. It can also assist in the overall creation of a more social setting by attracting visitors and economic spend (Café Culture).

The Council supports the development of Café Culture through the Local Plan and provisions of footpath widening and improvements to public realm as part of the CHORD Project in our towns. Notwithstanding this, certain consents and authorisations must be obtained to allow individual retailers / traders to use the footpaths for their activities.

Consents

Tables, chairs or display of goods on Council controlled pavements can add character to an area however if they are not carefully managed pedestrians may be put in danger. People with impaired vision, in wheelchairs or with prams can be particularly disadvantaged. In some places, people eating or drinking outdoors can also cause considerable noise nuisance for residents and impede access for emergency vehicles. The visual appearance and size (no. of tables) must also be taken into consideration on a case by case basis.

Most retailers / traders will be responsible and shall be very well aware of the capacity of the pavement outside their property for diversification so will quickly identify the most suitable solution and obtain the necessary consents. The traders will also need to consider how they will monitor, manage and insure their goods, customers or furniture outside of their premises. **Please see 'Things to Consider at Appendix A.' and 'Public Realm Areas used for Outdoor Cafés at Appendix' D**

To ensure the safe and efficient management of pavement uses 3 consents are likely to be required from the Council prior to the commencement of trade:-

1. Roads Authority Consent
2. Planning Consent – Change of Use
3. Licence / Amendment to Licence (where sale of alcohol involved)

The Council offers free pre-application service on all of these matters and it is strongly advised that early contact is made with the relevant service. The Council shall endeavour to deal with requests and application for consent as quickly as possible.

1 - Roads Authority Consent

The first step in the process is to obtain a Roads Authority Consent (sometimes referred to as a pavement licence).

Roads (Scotland) Act 1984

Section 59 of the above Act states:

“...nothing shall be placed or deposited in a road so as to cause an obstruction except with the roads authority’s consent...”

In considering an application the Council must ensure that sufficient footway width is retained for pedestrians to move about safely and will require indemnity against liability for injury to third parties caused by the presence of the tables, chairs and related items.

The Council will usually stipulate that at least 1.8m of footway is retained unobstructed for pedestrians.

Suitable boundary enclosure, opening hours and statement of management shall also be requested as part of the Road Authority Consent Process.

You will be required to submit:-

- Plan at 1:500 & a location plan at 1:1250
- Application Fee of £165
- Proof of Indemnity Insurance
- Statement of Management Arrangements
- Risk Assessment

All Licences shall be subject of an annual review at a charge of £56 and be required to operate under the Councils Conditions as set out in **Appendix B**.

We recommend early engagement prior to the submission of your application with your local Roads Officer which is free of charge. The application process usually takes between 2 and 3 weeks to process.

Enforcement

Traders who do not obtain the necessary consents or persistently breach the conditions outlined at **Appendix B** may have their outdoor furniture removed by Council Officers.

2 - Planning Consent – Change of Use

Planning consent is required for the change of use of pavement area into a seating or display of goods area. Any planning application should only be progressed **AFTER a Roads Authority Consent has been obtained**. This is because the acceptability of a proposal is heavily reliant on the views of the Council’s Road Engineers in terms of accessibility, safety and sightlines. The fee for a Change of Use application is £382 and once implemented shall be limited to a time period of 5 years.

The Local Plan generally supports the development of Class 1 (*Shops*) and Class 3 (*Food and Drink*) in our defined town centres under Policy LP RET1 and LP RET2.

The Planning Department shall also review the proposal in the context of the existing streetscape and surrounding land uses. They will take into consideration the size, boundary / enclosure treatment, appearance, proximity of residential properties, cumulative impact and views of the public following consultation. A separate Listed Building Consent may be required where tables/enclosures are proposed to be attached to a Listed Building.

The Change of Use application should be accompanied with the details outlined at **Appendix B**.

Please note that the Scottish Government are currently considering alterations to Permitted Development Rights which may mean in some scenarios 'Pavement Cafés' shall not require planning consent. The change in legislation is not likely to be enacted until late summer 2014 and shall only apply to Cafés / Restaurants where there remains 3 metres worth of unobstructed pavements. Public houses and larger pavement cafes will still require full planning consent.

3 - License (where sale of alcohol involved)

Any premises that is licensed to sell alcohol and wishes to have an outside seating area will require to apply to Argyll and Bute Licensing Board for a variation to their licence. As this will result in an increase in the capacity of the premises then it falls within the category of a major variation and the fee is £160. Advice and guidance on the process can be obtained by contacting the Licensing team on 01546 604128.

It is also worth noting that there are byelaws in place in various areas throughout Argyll and Bute, including the main towns, which make it a criminal offence to consume alcohol in public places. A public place would include the pavement area. The byelaws do not apply, however, to any area that has been licensed as detailed above. Accordingly, provided the outside area/ pavement café has been licensed then anyone consuming alcohol within that area is not committing an offence. For enforcement purposes, it is important that the extent of the outside area is marked out in some way, perhaps by markers or bollards.

APPENDIX A – THINGS TO CONSIDER

Before a trader or retailer comes forward to the Council with their proposal to use the pavement for seating or display of goods there are a number of things for them to consider and submit as part of their applications for planning or road authority consent.

Things to consider:-

1. **Space** - Is there room for the use as proposed and existing pavement users?
2. **Environment** - Is the quality of the furniture and immediate environment suitable for the use proposed?
3. **Neighbours** - How will the proposed use affect the neighbouring properties?
4. **Management** - Does the proposal meet the various criteria outlined in legislation and can it be operated in a safe and supervised manner?

1. Space

The extent of the seating or display of goods area will be agreed in each individual case, but an overriding principle is that it must not unduly impede public or private access within the street and to and from buildings.

The width of an outdoor seating area or display of goods will normally be no greater than the frontage of the premises from which it is served. The appropriate depth will be determined by its location on the highway; however a minimum width of unobstructed highway of 1.8 metres must usually be provided for safe and convenient pedestrian movement. This allows wheelchairs and prams to pass comfortably and provides a reliable, safe route for visually impaired pedestrians; however, in some cases additional width will be required in streets where there is a high level of pedestrian activity or permanent obstructions such as street furniture.

Tables and chairs should normally be placed adjacent to premises, at the back (building side) of the footway. In special areas this requirement may be waived. The positioning of tables and chairs should never discourage pedestrians from using the footway. There should generally not be a situation where trays of drinks or food are carried across thoroughfares. Any remote areas should be provided with independent facilities i.e. coffee machines, fridges and the like, this would be an exception to the norm.

2. Environment

The extent of the outdoor seating area must be clearly defined by an enclosure. This will ensure that a clear movement zone is retained for all users and emergency vehicles and that the pavement cafes do not expand.

The detailed design of any form of enclosure will be considered on their merits, but in all cases they must be of a temporary nature, able to be erected and demounted easily. Posts and chains/ropes and railings should not create a hazard for visually impaired people. Where screens are used, solid panels should not extend above

0.9m in height from the ground. Whatever is used to enclose an area there should be a tonal contrast with the background but should not be too visually dominant.

The external corners should provide some form of visual contrast for easy identification by partially sighted people. A low level-tapping rail should be incorporated into the enclosure. Planting in containers is acceptable where this does not extend beyond the defined area, does not stain the paving, and are free standing so they can be removed if required.

Details of any outdoor heaters / parasols for use must be included within the drawings at the time of application.

Advertising within an outdoor seating area is not permitted without obtaining consent from the Council. Requirements for this approval include the submission of photographs or brochures to identify the material, colour and design whether it is to be sited on a banner, poster, flag, umbrella or other structure.

Proposals will be considered individually on their merits in terms of design, materials and colour. Plastic garden furniture, wooden picnic benches or generic branded enclosures (ie – name of a brewery) will not normally be considered to be appropriate. Tables and chairs should be separate to allow for a variety of configurations and must be high quality and robust.

The provision of external seating or display of goods should not detract from the visual amenity of the area.

3. Neighbours

It is vitally important that the needs of adjoining properties, nearby residents, pavement users and delivery/emergency services are fully considered when proposing a use on the highway. These needs will be examined closely by the authorities dealing with the formal applications made under the current legislation. It may be helpful if you have consulted with your neighbours before submitting the formal application. The hours and days of use of the tables and chairs may be restricted to prevent nuisance to local residents and businesses.

4. Management

The extent of the outdoor seating area or display of goods will normally be directly in front of the premises that it serves to allow for robust surveillance and accountability. It will be the responsibility of the retailer / trader to ensure that the conditions of the road consent, planning permission and alcohol licence are adhered to along with the safe maintenance of their furniture. The trader / retailer will be responsible for the behaviour of and actions by his customers whilst in the consented pavement area.

At all times (particularly in poor weather conditions) it shall be the sole responsibility of the trader / retailer to ensure the safe use of their outdoor furniture.

Where there is already internal seating associated with the building additional toilet facilities may be required if overall occupancy figures are increased. The approved licensed area will be kept clean and litter free; and every effort should be made to ensure that litter does not stray onto neighbouring areas.

The responsibility for removing tables and chairs and other obstructions from the highway rests with the owner/operator of the premises.

APPENDIX B - STANDARD CONDITIONS FOR PAVEMENT CAFÉ LICENCES AND THE DISPLAY OF GOODS FOR SALE ON THE PUBLIC HIGHWAY

1. The boundary and layout of the Pavement Café as defined by the plan attached to the Licence shall be adhered to at all times. A copy of the licence with this plan must be displayed at the premises at all times.
2. All activity associated with the Pavement Café shall be within the boundary. This includes tables, chairs, menu boards, advertising etc.
3. Pavement cafés will only be permitted where adequate footway width is available. Generally there must be a remaining width of thoroughfare between the proposed café and any street furniture or the kerbline of half of the width of the footway to a minimum width of 1.8 metres. Where an area of footway is to be used for the display of goods for sale, the permitted area will normally be restricted to 1 metre in depth across the frontage of the premises. i.e. extending 1 metre from the front of the building into the footway. In exceptional circumstances and where the width of the footway permits a depth of 1.5 metres may be allowed at the discretion of the local roads office .
4. Planning approval will also be required for the Pavement Café.
5. The Licensee shall comply with Food Hygiene Regulations and any other relevant regulations applying to the sale of food.
6. The Licensee shall ensure tables are immediately cleared when customers have finished eating to minimise attraction of birds and flying insects.
7. The licensee shall provide a written assessment of the risks to which their employees are exposed whilst at work and must also assess whether there are risks to members of the general public that arise out of the general conduct of their business specifically in relation to the highway. Following assessment and identification of risk, a course of action shall be implemented to either eliminate the risk or reduce it to its lowest reasonably practicable level. Reviews of risk assessments shall always be carried out when there is reason to suspect that a current assessment is no longer valid (and the result of the review must be written down).
8. No permanent obstruction will be allowed in the footways within the Pavement Café area that may cause a safety hazard to users of the public highway. No Advertisement Boards shall be allowed outside of the designated area.

9. The designated area will be delineated by barriers which present an adequate visible reference for partially sighted pedestrians, their design and nature will require to be agreed by the Council prior to use. For the display of goods for sale, an adequate toe rail must be provided, such that visually impaired cane users can identify the obstruction.
10. The licensee shall keep the area within the boundaries clean and litter free. Any litter that escapes from the inside of the licensed area to the outside of the area shall be collected by the Licensee.
11. Suitable litter/refuse bins shall be provided within the Pavement Café area at all times of operation. The Licensee shall be responsible for disposing of all waste produced at the Pavement Café.
12. The licensee shall be responsible for ensuring the immediate cleaning of spillages etc. in the Pavement Café and surrounding areas. At the end of each trading session the entire Pavement Café area shall be cleaned.
13. Standard types of crockery, i.e. china cups and saucers, used within the premises may also be used within the pavement café.
14. Outside of the permitted licence hours, all furniture must be removed from the footway and stored safely.
15. The maximum permitted hours of operation will be between 8.30 am and 9.00 pm. Note these are MAXIMUM HOURS. The Licence for particular premises may specify permitted hours that are less than the maximum.
16. The Licensee shall ensure that the Pavement Café operates in a safe and efficient manner at all times, and that there is not a safety risk or nuisance caused to other users of the public road or nearby premises.
17. The Licensee shall be responsible for the conduct of people, both patrons and employees, within the Pavement Café area. Unruly or rowdy behaviour will not be tolerated and may lead to the refusal of a renewal of licence.
18. Only patrons seated at tables should be served or permitted within the pavement café.
19. To reduce the likelihood of nuisance being caused, the playing of amplified music is not permitted within the Pavement Café area or outside of the premises without the prior written approval of the Council.
20. The licensee must take out Public Liability insurance cover for the Pavement Café and shall indemnify the Council against all claims in respect of injury, damage or loss arising out of the granting or permission, (e.g. damage to the road or street furniture) to a minimum value of £5,000,000 unless such claims arise of the Council's own negligence.
21. The Council can, with two days' notice, require the Pavement Café to cease operation to allow utility or road or footway repairs to be undertaken. Neither the Council nor any

public utility company will be liable for any loss of income attributable in any way to repair and/or maintenance of any road, footway, pavement or public services, to be laid, or already laid within the pavement.

APPENDIX C - INFORMATION REQUIRED WHEN SUBMITTING A PLANNING APPLICATION

In submitting your planning application for a change of use, you are required to submit the following:

- A completed application form (*available on Council website*)
- The application fee (£382)
- An advert fee (£156) – in certain circumstances where ‘*vacant land*’ is present
- **A Location plan** (1:1250 or 1:2500) showing location of premises (*available from Council*)
- **A Site plan** (1:500 or 1:200) showing boundary, kerb and building lines, points of access and street furniture, including the property, key dimensions, seating and other furniture layout.
- **Elevation plans** with supporting detail if required to show the means of enclosing the pavement – bollards, roped enclosures, banner enclosures.
- **Photos and/or brochures** showing types of furniture, planters, enclosures, umbrellas, etc to be placed on the pavement.
- **A written specification** describing details, materials, hours of operation, goods to be sold, seasons of operation and colours (these could be notes on drawing).

In certain circumstances special additional requests for further information may be added to the license or permission as and when necessary.

APPENDIX D - PUBLIC REALM AREAS USED FOR OUTDOOR CAFÉS

Public realm areas can be very diverse in their structure, layout and nature. In the majority of cases the same issues that affect the establishment of individual street cafés are likely to affect the use of public realm areas as cafés.

It is necessary to regularise the use of public realm spaces in the interests of public safety, the environment and the viability of the businesses adjacent to the area. The Council cannot resource any level of daily management beyond normal street cleaning operations.

Before any organisation can establish any street café in a public realm area they must produce a management plan for the establishment and operation of the street café. In the event that several organisations wish to establish street café facilities in the same general public realm area they must work together to provide one management plan, which will be adhered to by all parties involved in the provision of the facilities. One of the organisations will be required to be the lead organisation, acting on behalf of the others and liaising with the Council. The plan must be submitted to Argyll & Bute Council and be approved by the Council in writing. The plan will be the subject of regular review to ensure it is fit for purpose and is providing the desired controls. Should the organisations providing the facilities fail to implement the plan or fail to adhere to the plan during the operation of the facilities in a manner that the Council believe is to the detriment of the public realm space or public safety authorisation to operate the facilities may be withdrawn. Should authorisation be withdrawn the organisations operating the facilities will cease to do so until further authorisation is given, after resolution of any issues.

Management Plan

In preparing a management plan an organisation or group of organisations shall include measures which address the following issues;

- Public safety, as most public realm areas will also be public thoroughfares the safety of all users of the thoroughfare must be taken into consideration, the potential conflict between café users and other thoroughfare users must be managed to reduce the potential for injury from, for example, scalding with hot drinks
- Environmental issues such as litter, staining of surfaces, grease deposits on surfaces, attraction of pests such as seagulls and vermin, all must be addressed to minimise the effects of such detrimental issues
- Furniture will be required to be secured in bad weather, protected from vandalism and kept in good general appearance and well maintained
- Obstruction of the thoroughfare must be avoided, all users have the right of passage along public thoroughfares, provision must be included for able bodied and those who have additional challenges such as blindness, impaired mobility, wheelchair users and those with prams or pushchairs.
- The general conditions in appendix B should be considered and where relevant addressed when preparing the plan, specific restrictions such as minimum footway

widths need not be adhered to but adequate thoroughfares must be maintained for access by all

- Direct thoroughfare routes along the frontage of premises serving hot drinks to be consumed in areas away from the frontage must be avoided on safety grounds, adequate means of making the path way convoluted, should be explored and included in the design. Access for wheelchairs and prams being maintained

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