

**WICKLOW COUNTY COUNCIL**

**PLANNING & DEVELOPMENT ACTS 2000 (As Amended)  
SECTION 5**

**Director of Services Order No:** 1115/2022

**Reference Number:** EX 37/2022

**Name of Applicant:** Brendan Cloran

**Nature of Application:** Section 5 Referral as to whether or not Removal of existing hit & miss fence & replacement with block wall to match the adjoining/adjacent boundary at 31 Knockmore, Arklow, Co Wicklow is or is not exempted development.

**Location of Subject Site:** 31 Knockmore, Arklow, Co Wicklow

**RECOMMENDATION:** Report from Solomon Aroboto E/P

With respect Removal of existing hit & miss fence & replacement with block wall to match the adjoining/adjacent boundary at 31 Knockmore, Arklow, Co Wicklow to the query under Section 5 of the Planning & Development Act 2000 as to whether is or is not exempted development within the meaning of the Planning & Development Act 2000 ( as amended)

**Having regard to:**

- The details submitted under Section 5 Declaration on 14/06/2022
- Sections 2 (1) & 3(1) of the Planning & Development Act 2000 (as amended)
- Articles 6 & 9 of the Planning & Development Regulations 2001 as amended
- Schedule 2, Pt.1 Class 5 of the Planning & Development Regulations 2001(as amended)
- Site inspection carried out on 28/06/2022.

**Main reasons with respect to section to Section 5 Declaration:**

Having regard to the height of the proposed wall & its location to the rear of the house, it is considered that the proposed wall comes within the description & limitations of works specified under Schedule 2, Pt.1 Class 5 of the Planning & Development Regulations 2001 as amended.

The Planning Authority considers that Removal of existing hit & miss fence & replacement with block wall to match the adjoining/adjacent boundary at 31 Knockmore, Arklow, Co Wicklow is development but is exempted development

ORDER:

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That a declaration to issue stating:

That Removal of existing hit & miss fence & replacement with block wall to match the adjoining/adjacent boundary at 31 Knockmore, Arklow, Co Wicklow is development but is exempted development within the meaning of the Planning & Development Acts 2000 (as amended) .

Signed: \_\_\_\_\_

*[Handwritten Signature]*  
A/ Director of Services  
Planning Development & Environment

Dated 04 day of July 2022



**COMHAIRLE CONTAE CHILL Mhantáin**  
**Wicklow County Council**

**Forbairt Pleanála agus Comhshaol**  
**Planning Development and Environment**

Áras An Chontae / County Buildings  
Cill Mhantáin / Wicklow  
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Rphost / Email: [plandev@wicklowcoco](mailto:plandev@wicklowcoco)  
Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

Brendan Cloran

July 2022

**RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended)**

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I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000 in respect of the following:

Exemption Ref. No: EX 37/2022

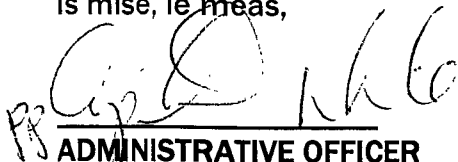
Applicant: Brendan Cloran

Nature of Application: Removal of existing hit & miss fence & replacement with block wall to match the adjoining/adjacent boundary at 31 Knockmore, Arklow, Co Wicklow

Location: 31 Knockmore, Arklow, Co Wicklow

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,



**ADMINISTRATIVE OFFICER**  
**PLANNING DEVELOPMENT & ENVIRONMENT.**



COMHAIRLE CONTAE CHILL Mhantáin  
Wicklow County Council

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DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING &  
DEVELOPMENT ACT 2000 AS AMENDED

Applicant: Brendan Cloran

Location 31 Knockmore, Arklow, Co Wicklow

DIRECTOR OF SERVICES ORDER NO. 1115/2022

A question has arisen as to whether or not Removal of existing hit & miss fence & replacement with block wall to match the adjoining/adjacent boundary at 31 Knockmore, Arklow, Co Wicklow is or is not exempted development.

Having regard to:

- The details submitted under Section 5 Declaration on 14/06/2022
- Sections 2 (1) & 3(1) of the Planning & Development Act 2000 (as amended)
- Articles 6 & 9 of the Planning & Development Regulations 2001 as amended
- Schedule 2, Pt.1 Class 5 of the Planning & Development Regulations 2001(as amended)
- Site inspection carried out on 28/06/2022.

Main Reasons with respect to Section 5 Declaration:

Having regard to the height of the proposed wall & its location to the rear of the house, it is considered that the proposed wall comes within the description & limitations of works specified under Schedule 2, Pt.1 Class 5 of the Planning & Development Regulations 2001 as amended

**The Planning Authority considers that Removal of existing hit & miss fence & replacement with block wall to match the adjoining/adjacent boundary at 31 Knockmore, Arklow, Co Wicklow is development but is exempted development.**

Signed:

  
ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT

Dated July 2022





## Section 5 Declaration

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**File Reference:** EX 37/2022

**Applicant's Name:** Brendan Cloran

**Address:** 31 Knockmore, Arklow, Co. Wicklow.

**Description:** Removing hit and miss fence continuing neighbours wall as boundary with a block wall

**Date of site visit** 28/06/22

**Due date** 08/07/22

**Reporting Planner** Solomon Aroboto E/P

**Reporting to** Fergal Keogh, Senior Engineer / Edel Bermingham, Senior Executive Planner

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### Section 5 Referral

From examining the submitted particulars and carrying out site inspection, it is considered that the description should be revised as follows,

Removal of the existing hit and miss fence and replacement with block wall to match the adjoining/adjacent boundary.

**With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether,**

Removal of the existing hit and miss fence and replacement with block wall to match the adjacent boundary.

At 31 Knockmore, Arklow, Co. Wicklow, is or is not development and is or is not exempted development within the meaning of the Planning and Development Act, 2000 (as amended)

## **Planning History**

None on site

## **Relevant Legislation**

### ***Planning and Development Act 2000 as amended Section 2(1)***

*“Works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal*

*“Structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and— (a) where the context so admits, includes the land on, in or under which the structure is situate,*

### ***Section 3(1) of the Planning and Development Act 2000 as amended defined a development as follows: -***

*“Development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.*

### ***Planning and Development Act 2000- 2010 Section 4(1)(h) as amended - defined an Exempted development as follows: -***

*Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures*

## ***The Planning and Development Regulation 2001 as amended***

### ***Article 6***

*(3) Subject to article 9,..... development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.*

***Article 9 (1) - Development to which article 6 relates shall not be exempted development for the purposes of the Act—***

***(a) If the carrying out of such development would—***

***(i) Contravene a condition attached to a permission under Act or be inconsistent with any use specified in a permission under the Act,***

***(iii) Endanger public safety by reason of traffic hazard or obstruction of road users,***

***(viii) Consist of or compromise the extension, alteration, repair or renewal of an unauthorized structure or a structure the use of which is an unauthorized use***

**Planning and Development Regulations 2001 as amended: Schedule 2, Pt.1 Class 5, states that the following constitutes exempted development:**

**Description of Development**

*The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.*

**Conditions and Limitations**

- 1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.*
- 2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.*
- 3. No such structure shall be a metal palisade or other security fence.*

**Assessment**

The issue is to determine whether the construction of,

Removal of the existing hit and miss fence and replacement with block wall to match the adjoin/adjacent boundary wall

is or is not exempted development within the meaning of the Planning and Development Acts, 2000 as amended.

The site is located within the built up part of Arklow in an existing housing estate. The application site comprises of a semi-detached 2 storey dwelling with front /rear gardens. Hit/miss fence run along the rear and side boundaries. I note on site inspection that the rear boundary of the adjoining dwelling is block wall.

Having regard to the definition of development in Section 3 of the Planning and Development Act 2000 (as Amended), it is considered that the works of removal of the existing hit and miss fence and replacement with block wall to match the adjacent boundary wall is development.

The next question therefore to ask is whether the,

Removal of the existing hit and miss fence and replacement with block wall to match the adjacent boundary wall

Is or is not exempted development.

The proposed measures 1.82m in height made of block wall and capped.

**Schedule 2, Pt.1 Class 5 checklist**

<i>Is the wall or fence within or bounding any garden or other space in front of a house, 1.2 metres ?</i>	<i>Yes, the wall/fence bounds the garden of a house</i>
<i>Does the height of wall structure exceed 2metres?</i>	<i>No the height of the wall structure is 1.8m</i>
<i>Will the wall be capped ?</i>	<i>Yes</i>
<i>Will the wall be visible from any road, path or public area, including public open space ?</i>	<i>No, it is only visible from the rear garden</i>
<i>Would the wall be rendered or plastered.?</i>	<i>Not stated</i>
<i>Would the wall structure be a metal palisade or other security fence?</i>	<i>No, the wall would block</i>

**Conclusion**

On basis on the above assessment, it is considered that,

Removal of the existing hit and miss fence and replacement with block wall to match the adjoin/adjacent boundary wall

At 31 Knockmore, Arklow, Co. Wicklow, Co. Wicklow, is development and is exempted development.

**Recommendation**

**With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether,**

Removal of the existing hit and miss fence and replacement with block wall to match the adjoin/adjacent boundary wall

At 31 Knockmore, Arklow, Co. Wicklow, is or is not development and is or is not exempted development within the meaning of the Planning and Development Act, 2000 (as amended)



**The Planning Authority considers that:**

Removal of the existing hit and miss fence and replacement with block wall to match the adjoin/adjacent boundary wall

at 31 Knockmore, Arklow, Co. Wicklow, , is development and is exempted development.

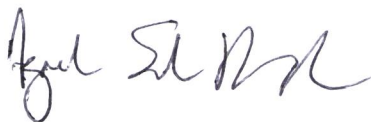
**Main Considerations with respect to Section 5 Declaration:**

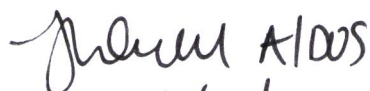
- The details submitted under Section 5 Declaration on 14/06/22
- Sections 2(1) and 3(1), of the Planning and Development Act 2000 (as amended)
- Articles 6 & 9 of the Planning and Development Regulations 2001 as amended
- Schedule 2, Pt.1 Class 5 of the Planning and Development Regulations 2001(as amended)
- Site inspection carried out on 28/06/22

**Main Reasons with respect to Section 5 Declaration:**

Having regard to the height of the proposed wall and its location <sup>to the rear</sup> within the curtilage of a house, it is considered that the proposed wall comes within the description and limitations of works specified under Schedule 2, Pt.1 Class 5 of the Planning and Development Regulations 2001 as amended

  
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Solomon Aroboto E/P  
01/07/22



  
04/07/22



  
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ATT00011.txt





ATT00010.txt

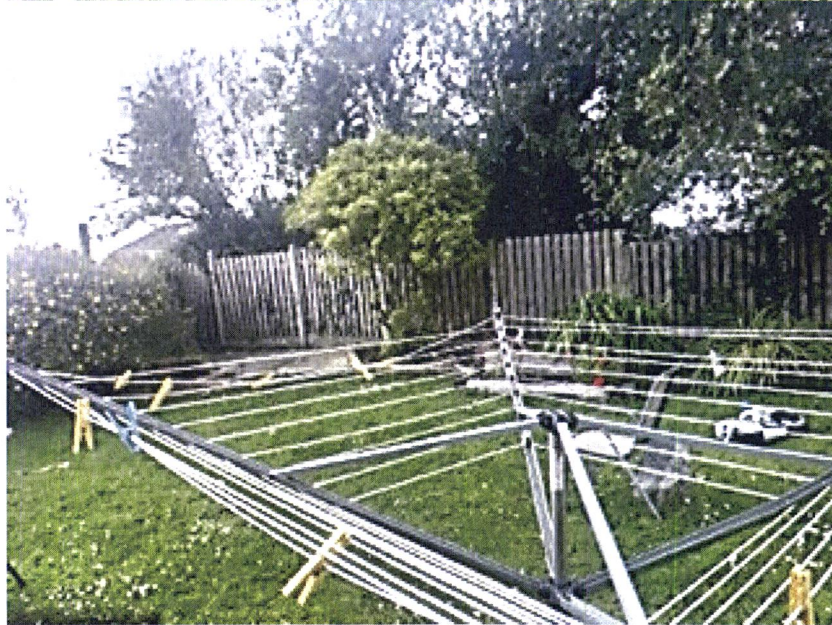


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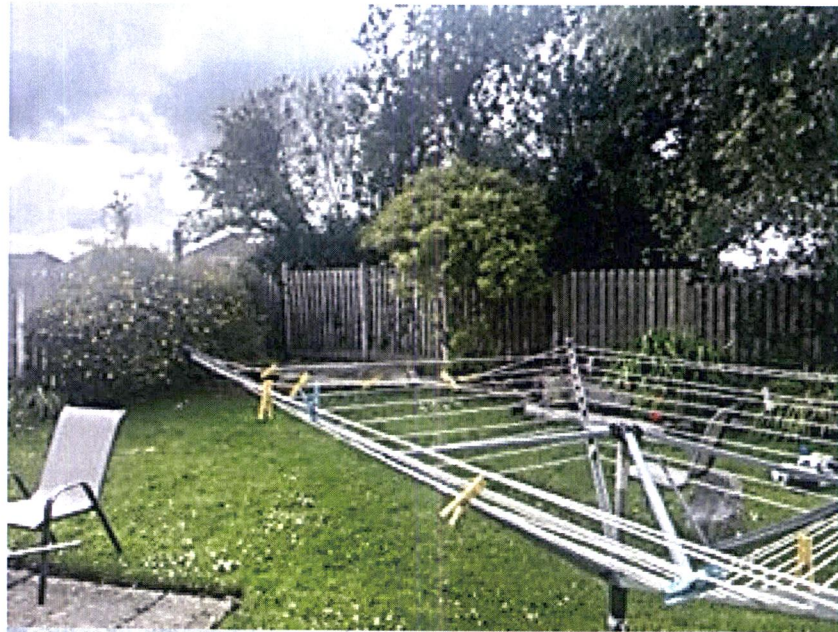


  
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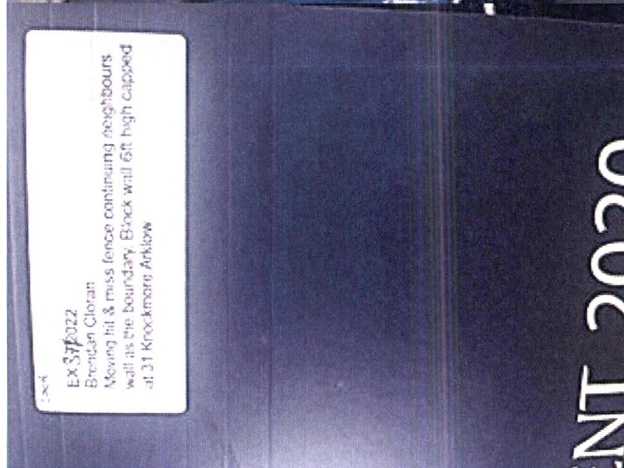


  
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# MEMORANDUM

## WICKLOW COUNTY COUNCIL

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**TO: Solomon Aroboto  
Executive Planner**

**FROM: Crystal White  
Assistant Staff Officer**

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**RE:- Ex 37/2022- Declaration in accordance with Section 5 of the  
Planning & Development Acts 2000 (as amended)  
Brendan Cloran Purposed moving hit & miss fence continuing  
neighbours wall as boundary. Block wall 6ft high capped at 31  
Knockmore Arklow, Co Wicklow**

I enclose herewith for your attention application for Section 5 Declaration received 14th June 2022.

The due date on this declaration is the 8<sup>th</sup> July 2022.

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**Senior Staff Officer  
Planning Development & Environment**





**Comhairle Contae Chill Mhantáin  
Wicklow County Council**

**Forbairt Pleanála agus Comhshaol  
Planning Development and Environment**

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Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

**22<sup>nd</sup> June 2022**

Brendan Cloran

**Re: EX 37/2022 Application for a Declaration in accordance with Section 5 of the Planning and Development Acts 2000 (as amended) – Purposed moving hit & miss fence continuing neighbours wall as the boundary. Block wall 6ft high capped at 31 Knockmore Arklow Co Wicklow.**

**A Chara,**

I wish to acknowledge receipt of application in the above regard received on the 14<sup>th</sup> of June 2022 and to advise that a decision is due on this application on the 11<sup>th</sup> July 2022.

**Mise le meas**

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**SENIOR STAFF OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT**



Wicklow County Council  
County Buildings  
Wick  
0404 21100

14/06/2022 15 13 15

Receipt No L1/0/296388

\*\*\*\*\* REPRINT \*\*\*\*\*

Brendan Cloran  
31 Knockmore  
Arklow  
Co Wicklow

EXEMPTION CERTIFICATES	80 00
GOODS	80 00
VAT Exempt/Non vatable	

Total 80 00 EUR

Tendered  
Cash 80 00

Change 0 00

Issued By Margaret Cullen  
From Revenue Section  
Vat reg No 0015233H



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Office Use Only

Date Received \_\_\_\_\_

Fee Received \_\_\_\_\_

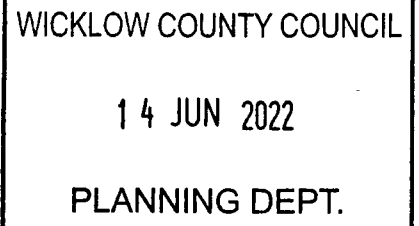
APPLICATION FORM FOR A  
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &  
DEVELOPMENT ACTS 2000 (AS AMENDED) AS TO WHAT IS OR IS NOT  
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT

1. Applicant Details

(a) Name of applicant: Brendan Cloran

Address of applicant: \_\_\_\_\_  
\_\_\_\_\_

Note Phone number and email to be filled in on separate page.



2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) \_\_\_\_\_

Address of Agent : \_\_\_\_\_  
\_\_\_\_\_

Note Phone number and email to be filled in on separate page.

**3. Declaration Details**

i. Location of Development subject of Declaration 31  
Knockmore Arklow

ii. Are you the owner and/or occupier of these lands at the location under i. above ?  
 Yes  No.

iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier  
[Signature]

iv. Section 5 of the Planning and Development Act provides that : If any question arises as to what, in any particular case, is or is not development and is or is not exempted development, within the meaning of this act, any person may, an payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question. You should therefore set out the query for which you seek the Section 5 Declaration re moving hit and miss fence, continuing neighbours wall as the boundary. Block wall 6 foot high capped

*Additional details may be submitted by way of separate submission.*

v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Additional details may be submitted by way of separate submission.*

vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure ( or proposed protected structure) ?

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

vii. List of Plans, Drawings submitted with this Declaration Application \_\_\_\_\_

Site Location  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

viii. Fee of € 80 Attached ? yes

Signed : Brendan Curran Dated : 14/06/22

**Additional Notes :**

As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below :

- A. Extension to dwelling - Class 1 Part 1 of Schedule 2
- Site Location Map
  - Floor area of structure in question - whether proposed or existing.
  - Floor area of all relevant structures e.g. previous extensions.
  - Floor plans and elevations of relevant structures.
  - Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.

B. Land Reclamation -

The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still

# 5. BOUNDARY PLAN

## LEGEND

### EXTERNAL BOUNDARIES

#### NEW BOUNDARY WALL

2m high capped and rendered block built wall.

#### EXISTING BLOCK WALL

Existing block wall to be retained.

#### EXISTING BOUNDARY FENCE

Existing boundary fence to be retained and repaired where necessary.

### INTERNAL BOUNDARIES

#### BLOCK WALL

1.8m high block built wall with concrete capping.

#### CONCRETE POST AND TIMBER FENCE

1.8m high concrete post and timber panel fence.

#### BOW TOP FENCE

1.2m high 'anti-trap' bow top fencing.

Please refer to dwg #427-PD-06 for boundary details.

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PLANNING DEPT.  
WICKLOW CO COUNCIL  
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