

Appendix 2

Analysis of Application - Key Issues for Harlow

A) Process Issues

Harlow Objectives	Background Notes	RAG Rating	Current Position
<p>1. Proposed 'commitments' and 'strategies' secured in planning conditions (PCs) and obligations (POs), with obligations offered by the applicant clearly defined before decision)</p>	<p>Requirement set out in:</p> <p>HGGT 'How To' Guide for Planning Obligations, Land Value Capture and Development Viability (Guidance Note: 01/20190417)</p> <p>HGGT Memorandum of Understanding - The cross-boundary Approach to the Consideration and Determination of Outline Planning Applications for the Gilston Area Allocation and the Detailed Planning Applications for the River Stort Crossings (April 2019)</p> <p><u>Background</u></p> <p>To date it has been assumed that all the applications for the Gilston area development should be determined together. This would facilitate co ordination and the essential comprehensive development and HIG outcomes. To consolidate this approach a single planning agreement for V1-7, with appropriate HIG / RIF links and all relevant partner sign up (potentially including HDC) has been sought.</p> <p>To achieve this objective, clarity about the PC / POs that can be agreed is essential before application determination.</p> <p>There are process / precedent / planning obligation template risks for other HGGT developments.</p>	<p>RED</p>	<p><u>Points of concern</u></p> <ul style="list-style-type: none"> • There are still many fundamental uncertainties about what PCs/ POs the applicant is prepared to agree (See section 2 of the Table) • It is unclear, as a result of the continuing lack of a landowner MoU or any similar agreement, how a permission can ensure comprehensive development is achieved with V7 development proposals • Lack of clarity in respect to POs affects the HIG / RIF arrangements • It may no longer be feasible to achieve the objective of determination of all the applications together in the way originally intended and at the same time maintain important overall HGGT timing imperatives, particularly ensuring the timely delivery of HIG projects <p><u>Suggested actions</u></p> <ul style="list-style-type: none"> • Offer support to the LPA in attempts to progress this application on the basis of a 'minded to approve, subject to' resolution. This necessitates inclusion of an unambiguous / detailed Heads of Terms (HoTs) schedule in reports to the LPA decision committee. This schedule should be developed collaboratively through the HGGT Partnership and backed with written commitment from the applicant. A resolution to grant permission should not be contemplated without this • Indicate a clear expectation that any post 'minded to approve' decision work on drafting of the details of the planning agreement should be subject to an assumption that it will be LPA led and will implement the Heads of Terms as approved. A 'sunset ' clause (time limit) should be set by the LPA • Indicate that, given the position on the V1-6 application, it is now considered necessary to progress the CSC / ESC applications separately to allow progress against the HIG timetable (which is dependent on early action on land acquisition, including potential compulsory purchase - this requires a planning permission for the CSC/ ESC) These applications are not impacted by the substantive issues

			outstanding on the V1-6 application, that primarily relate to the adequacy of POs
<p>2. Comprehensive, phased, development across landownerships achieved via planning conditions and obligations</p>	<p><u>Requirement set out in:</u></p> <p>EHLP Policy GA1, GA2</p> <p>EHDC Gilston Concept Statement (Guidance)</p> <p><u>Background</u></p> <p>See Background to 1.above.</p> <p>EHDC Letter / Notes on Comprehensive Development and Phasing issued to applicant (and V7 applicant) in June 2020 – this promotes important principles endorsed by HDC.</p> <p>EHDC has continually pressed this issue with the applicants, but with very limited response / success.</p> <p>There are process template / precedent risks for HGGT – other developments.</p>	RED	<p><u>Points of concern</u></p> <ul style="list-style-type: none"> • The V1-6 application alone cannot secure appropriate housing development and infrastructure / community facility phasing arrangements with V7 • A formal, published, Memorandum of Understanding (MoU) between landowners was proposed by the LPA / HGGT Partnership as a first step to coordination, but this has not been achieved. There appears to be absolutely no formal agreement between landowners on approach to the development • The applicant has not agreed with the LPA and the V7 applicant to progress a single planning agreement for the whole GA. There is no offer of , or acceptance of the need for, consistent approaches on many of the substantive PC/PO issues for Harlow (see Section 2 of the Table) • There is a high likelihood that, without resolving the points above, planning harm will result from this position
<p>3. Master planning and Reserved Matters application / detail design coding process secured via planning conditions / obligations</p>	<p><u>Requirement set out in:</u></p> <p>EHLP Policy GA1</p> <p>EHDC Gilston Charter</p> <p><u>Background</u></p> <p>Collaborative master planning with formal LPA approval <u>after</u> Outline Planning Permission (OPP) is unusual and cannot be enforced as part of a routine statutory reserved matters process.</p> <p>The HGGT Quality Review Panel (ORP) critique indicated this could create uncertainties and adverse implications for HGGT expectations on process and outcomes.</p> <p>A different approach (a Development Plan requirement for master planning before OP Application) is proposed for other HGGT major development sites (with in HDC area and for Epping Forest DC).</p>	GREEN	<p>The applicant appears fully committed to this objective, though detail is not yet available in proposed PCs/POs. HDC view is that POs are essential to ensure this process is secured and workable.</p> <p>HDC welcome the opportunity to continue to work, as part of the HGGT Partnership, with the applicant to support future stages of the planning process.</p>
<p>4. HDC and HGGT influence in</p>	<p><u>Requirement set out in:</u></p>	AMBER	<p><u>Points of concern</u></p>

<p>ongoing development process (through the planning agreement and by participation in a next stage Planning Performance Agreement - PPA with the LPA and applicant; to cover master planning, reserved matters applications and implementation of the planning agreement)</p>	<p>HGGT Memorandum of Understanding - The Cross-Boundary Approach to the Consideration and Determination of Outline Planning Applications for the Gilston Area Allocation and the Detailed Planning Applications for the River Stort Crossings.(April 2019)</p> <p><u>Background</u></p> <p>HGGT Partnership provides an excellent informal basis for decision making. EHDC have fully embraced this. However the way in which detailed arrangements are set for the implementation stage are important to the future of HGGT and the Partnership.</p>		<ul style="list-style-type: none"> • Collaboration and consultation on master planning and Reserved Matters applications decisions and other implementation matters will ultimately depend on the HGGT Partnership and applicant approach to the planning agreement (see 3. above)
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B. Substantive Issues

Harlow Objectives	Background Notes	RAG Rating	Current position
<p>1. HGGT Infrastructure Delivery Plan (IDP) - as the most up to date evidence of infrastructure need relevant to GA - secured, including with effective use and recycling of available Government support funding - the Housing Infrastructure Grant (HIG) and related Rolling Infrastructure Fund (RIF)</p>	<p><u>Requirement set out in:</u></p> <p>EHLP Policies GA1V i/j GA2</p> <p>HGGT Key Principle 'integrated transport and viable alternatives to cars'</p> <p>HGGT IDP</p> <p><u>Background:</u></p> <p>Applicant commitment; <i>'Promote and encourage sustainable travel to achieve mode share targets', 'Provide high quality walking and cycling as well as bus routes within the site', 'Provide the Central Stort Crossing that forms part of the Sustainable Transport Corridor as soon as practicable within the build out of the development', 'Provide a segregated walking and cycling route from Village 1 to Burnt Mill Roundabout including a bridge over the A414', 'Provide the Eastern Stort Crossing including a segregated walking and cycling route at the appropriate time during the build out of the development; 'Close Pye Corner to through traffic once the eastern Stort Crossing is open to traffic', 'Provide funding for a northern access to Harlow Town station to allow the feasibility design and, if proven feasible, the implementation of the scheme and associated walking and cycling improvements to Burnt Mill Lane'</i></p> <p>The availability of HIG eases developer cash flow for the major transport schemes. This should facilitate agreement of POs on funding and effective, early, delivery. However the HIG timetable introduces urgency and dependency to the programme for grant of planning permission for CSC / ESC (see A 1. above).</p> <p>Recovery of HIG funding assistance to RIF is critical for HGGT projects.</p>	<p>AMBER</p>	<p><u>Points of concern</u></p> <ul style="list-style-type: none"> Overall commitment by the applicant to developer funding of all the transport infrastructure necessary to facilitate the development is not yet clear In particular there appears to be no developer funding for STC network, which is integral to the CSC plans (ECC implemented schemes) The applicant is indicating that if HIG is to be used, their repayments to RIF should be reduced to an extent lower than is justified by the traffic loads linked to the development. This is not the role of HIG, which has been awarded to unlock the development through forward-funding, not to subsidise it through gap funding There is no agreement on the dwelling number caps that will incentivise / enforce the phased provision of transport infrastructure (main schemes to be directly implemented by the developer). Planning harm could occur if the LPA has no ability to enforce Transport modelling showing traffic impact at various points during implementation (especially at dwelling number caps) and judging severity / acceptability, has not been finalised and approved by the HAs. There is limited time now available for this work The absence of caps and lack of certainty around delivery of infrastructure seem likely to contribute to continued well justified HA concerns about the planning applications Non transport aspects of the IDP related to GA are not certain to be delivered <p><u>A more detailed analysis of the applicants current position on implementation of the HGGT IDP is set out separately (Appendix 3 to the report)</u></p> <p><u>Suggested actions</u></p> <ul style="list-style-type: none"> Clearly define final applicant offer in PO Heads of Terms (HoT) to enable decision, with outstanding points of concern taken into account in judging policy compliance and the overall planning balance. This should be based on the LA PO Instructions setting out / detailing the LA Partner position, already issued
<p>2. 'Commitments' and 'strategies' secured - a)</p>	<p><u>Requirement set out in:</u></p> <p>EHLP Policies GA1 Vi/j</p> <p>HGGT Key Principle 'integrated transport and viable alternatives to cars'</p>	<p>AMBER</p>	<p><u>Points of concern</u></p> <ul style="list-style-type: none"> Monitoring and management aspects of travel planning are not yet well defined or agreed Bus service plans proposed by the applicant have been indicated by the

<p><u>Sustainable transport</u></p>	<p><u>Background:</u></p> <p>Applicant commitment; <i>‘Promote and encourage sustainable travel to achieve mode share targets’</i>; <i>“To provide pump priming for bus services during the early stages of the scheme build out with the aim of providing an ultimate frequency of a bus every 10 minutes between the development, the rail station and the town centre’</i>; <i>‘To appoint a Travel Plan Co-ordinator before first occupation of the development and to fully fund implementation of the Travel Plan’</i>; <i>‘To monitor the effectiveness of the Travel Plan and provide additional funding for sustainable travel plan measures if the Garden Town target of 60% of travel by sustainable modes is not otherwise achieved’</i>; <i>‘To liaise with local communities over the impact of the proposals and to provide an Unforeseen Impact Fund to address any issues identified’</i></p> <p>Encouraging travel by public transport, walking and cycling has been a central concern for HGGT.</p> <p>The applicant appears generally committed to implementing sustainable transport measures (journey reduction / bus / walk / cycle). The application deals effectively with the design of on site transport infrastructure, including access points, to facilitate this.</p>		<p>Highway Authority as inadequate</p> <ul style="list-style-type: none"> Funding arrangements remain very unclear. This is particularly important in respect of the bus service plan, as a substantial pump priming subsidy will be required to deliver the quality, frequency and duration that encourages the levels of usage necessary to achieve HGGT travel targets <p><u>Suggested actions</u></p> <ul style="list-style-type: none"> Clearly define final applicant offer in PO Heads of Terms (HoT) to enable decision, with outstanding points of concern taken into account in judging policy compliance and the overall planning balance. This should be based on the LA PO Instructions setting out / detailing the LA Partner position already issued
<p>‘Commitments’ and ‘strategies’ secured -</p> <p><u>b) Housing</u></p>	<p><u>Requirement set out in:</u></p> <p>EHLP Policies GA1 V a/b/c/d HOU3</p> <p>HGGT Key Principle ‘balanced, diverse and functional communities’</p> <p>HGGT Study / Advisory Document ‘Housing Plan’ still in process</p> <p>HGGT Expression of Interest (October 2016) the scale and impact of HGGT strategic growth ‘enables greater social mobility’</p> <p><u>Background:</u></p> <p>Applicant commitment; <i>‘Deliver a wide range of housing types and sizes to meet the diverse housing need requirements’</i>; <i>‘Delivering Homes for All – a mix of types and tenures to meet the needs of the whole of the community, from young to old, families to singles and with support for those that need it’</i>; <i>‘40% affordable housing – meeting the Council’s policy target and also providing a greater range of affordability and options to rent or buy to ensure homes are genuinely affordable to a range of people’s circumstances’</i>; <i>‘Local priority – ensuring local people can access market and affordable homes’</i>; <i>‘Early delivery of extra care and supported housing to support more vulnerable residents’</i></p> <p>The applicant’s affordable housing (AH) offer of 40% overall is policy</p>	<p>AMBER</p>	<p><u>Points of concern</u></p> <ul style="list-style-type: none"> The applicant’s proposed AH tenure / type mix is not clearly defined / agreed. It is only presented as a wide range of possibilities rather than a default mix It is suggested that tenure / type mix will be fixed through future local housing needs studies and variations initiated by the landowner AH provision is proposed as secured only by relatively ‘weak’ village by village occupation ‘caps’ (i.e. the landowner is prevented from building further private housing if provision is not made). There is no ‘strong’ land value / transfer default mechanism to incentivise appropriate provision and secure ‘free’ land value parameters for AH if this does not happen AH nomination rights at an appropriate level are not clearly secured from the outset of development An overall AH needs assessment / nominations / allocations procedure, with a bespoke approach to creation of a new community and its integration with HGGT, is not proposed Nomination arrangements are proposed as subject to future village by village scheme negotiation. There appears to be an assumption that existing EHDC allocations procedures will apply. This might be acceptable if these procedures had been updated to take account of the HGGT vision and need for social mobility. However, this is not currently the case There is currently no protocol or procedure for HDC resident nominations either through the PO or through arrangements with EHDC, this could seriously undermine the HGGT Vision for social mobility

	<p>compliant and recognised as a significant planning benefit. It appears the landowner may be proposing an element of provision that equates to 'social rented' (rents related to Local Housing Allowance rates, as opposed to Government defined affordable rent). This is also a significant benefit.</p>		<p><u>Suggested actions</u></p> <ul style="list-style-type: none"> Clearly define final applicant offer in PO Heads of Terms (HoT) to enable decision, with outstanding points of concern taken into account in judging policy compliance and the overall planning balance Issue LA PO Instructions setting out / detailing the LA Partner position (a suggested Protocol and Procedure for Nominations has been put forward to the LPA by HDC)
<p>'Commitments' and 'strategies' secured -</p> <p>c) <u>Employment</u></p>	<p><u>Requirement set out in:</u></p> <p>EHLP Policy GA1 Vg</p> <p>HGGT Vision Key Principle 'the right work spaces'</p> <p>HGGT Employment Commission (Hardisty Jones Consultancy)</p> <p>LPA Partner 'Note' setting out current problems issued</p> <p><u>Background:</u></p> <p>Applicant commitment; <i>'Delivery of flexible local employment space across specific villages'; 'Maximising opportunities for local business, existing and new, within the development'; 'Supporting the growth of Harlow's Enterprise Zone, which is creating modern business space for businesses in the ICT, Advanced Manufacturing and Life Science sectors that will ultimately employ 5,000 workers'; 'Supporting the local firms to tender for opportunities, including allowing partnerships to access works packages – so small firms can still benefit'</i></p> <p>The HGGT Employment Commission suggests a pragmatic approach to this issue that tries to accommodate some of the applicant's need to address limited current commercial demand in the short term and flexibility for long term provision.</p> <p>This Employment Commission does however confirm the importance of making a firm long term commitment to employment land /premises provision because that can help:</p> <ul style="list-style-type: none"> balance very substantial population growth with job opportunities deliver a variety of local employment land / premises opportunities to complement larger scale (including EZ) options in Harlow create genuine mixed use developments in line with Garden Town principles provide work options that minimise the need to travel; in this case including into Harlow's town centre and employment areas achieve a clear Development Plan objective of reserving land in 	<p>RED</p>	<p><u>Points of concern</u></p> <ul style="list-style-type: none"> The quantity of land and floor-space proposed does not meet the minimum Development Plan requirement and therefore cannot be considered policy compliant A substantial part of any provision is envisaged as deferred to beyond the Development Plan period (to 2033). This a departure from the Development Plan which identified the employment provision as contributing to the District's share of land requirements to meet the economic market area needs to 2033 There is no agreed strategic approach to employment land provision with V7 and this impacts on above 'Reviews' of need are proposed for large elements (possibly all) of provision. This would result in an option to convert employment land provision to other uses (probably residential). This is likely to make it very difficult to ensure that much of the employment land is provided at all Locations and forms of provision are not sufficiently defined (e.g. village centres / free standing) and this makes it difficult to secure provision through a long term land reservation in PCs / POs (including by reference to an approved land use budget - with specific land areas - and parameter plan designations) There is no agreement that provision depends on realistic expectations of land value and possibly pump priming / subsidy arrangements at the outset There is no consideration of how the employment land premises might be used as income generating assets to support community based stewardship (see 6.below) <p><u>Suggested actions</u></p> <ul style="list-style-type: none"> Clearly define final applicant offer in PO Heads of Terms (HoT) to enable decision, with outstanding points of concern taken into account in account in judging policy compliance and the overall planning balance Issue LA PO Instructions setting out / detailing the LA Partner position (a suggested approach to long term reservation of employment land opportunities has been put forward to the LPA by HDC)

	<p>the largest HGGT growth location, because it is the development most conducive to accommodating the required scale and location of planned land reservations.</p>		
<p>‘Commitments’ and ‘strategies’ secured -</p> <p><u>d) Energy</u></p>	<p>Requirement set out in:</p> <p>EHLP Policies GA1 III DES4</p> <p>HGGT Key Principle ‘using technology in energy generation and conservation’.....</p> <p>EHDC Sustainability Guidance</p> <p>HGGT draft Sustainability Checklist and Guidance</p> <p><u>Background:</u></p> <p>Applicant commitment; <i>‘Ensuring environmental sustainability principles are embedded at all stages of our decision-making process, from design, procurement, implementation, operation and stewardship’; ‘To ensure Gilston Park Estate is highly energy efficient, reduces carbon emissions in the long-term and provides an environment where a low carbon lifestyle can be combined with enhanced quality of life’. ‘Innovations in design and construction to ensure all homes are built to the highest quality standards and are cost-effective to run’, ‘Ensuring homes are built to the highest standards of fabric energy efficiency, to ensure they are dry, warm and affordable to heat, and explore innovation and best practice on design for health and wellbeing (e.g. Happy by Design)’</i></p> <p>An Energy Strategy has been submitted by the applicant as an illustrative document, but specific proposals arising from this are not evident.</p>	<p>RED</p>	<p><u>Points of concern</u></p> <ul style="list-style-type: none"> The proposals appear to envisage reliance on a natural gas supply to the development (in conflict with current Government strategy) On individual building energy performance, only minimum Building Regulation levels are offered The energy strategy does not appear to suggest any specific commitment to implementation through site master planning and design. This is important as site planning influences overall design expectations in respect of orientation, layout, density and detailed design of buildings, including housing types provided, particularly terraced forms <p><u>A more detailed analysis of the applicant’s current energy strategy position in relation to the draft HGGT Sustainability Checklist and Guidance is likely to be prepared by HGGT team / specialist advisors</u></p> <p><u>Suggested actions</u></p> <ul style="list-style-type: none"> Clearly define final applicant offer in PO Heads of Terms (HoT) and controls/processes through POs to enable decision, (noting that the long term delivery of the site must allow for improvement and new technologies and practices), with outstanding points of concern taken into account in judging policy compliance and the overall planning balance Issue LA PO Instructions setting out / detailing the LA Partner position (a suggested PO approach to addressing this issue through a voluntary commitment to flexible standards has been put forward to the LPA by HDC with HGGT assistance. Both EHDC and HGGT have published guidance that addresses this issue)
<p>‘Commitments’ and ‘strategies’ secured -</p> <p><u>e) Community facilities stewardship</u></p>	<p>Requirement set out in</p> <p>EHLP Policy GA1 III, Vg and VI</p> <p>HGGT Overarching Principle ‘stewardship’ and Key Principle ‘enhancing the Green Belt and green wedge network’ (substantial open land maintenance liabilities)</p> <p>HGGT Study on Stewardship (Arup Consultancy) Unpublished</p> <p><u>Background</u></p> <p>Applicant commitment; <i>‘Implementing the Governance Strategy that will</i></p>	<p>RED</p>	<p><u>Points of concern</u></p> <ul style="list-style-type: none"> The applicant’s strategy in relation to the LA public realm adoption position is unclear. This has significant implications as the community stewardship arrangement may need to take responsibility for most residential streets LA feedback suggesting the need for a single capable and well funded body that can offer greater reliability and coherence for community led management (with the professional support needed and economies of scale), has not been accepted The alternative, which appears to involve village by village quasi-management companies, charging residents for services is not clearly defined or agreed The principles and terms of land transfer to a community body and property holding arrangements have not been detailed or agreed

empower existing and new residents to make decisions on the management of the new community', 'Agreeing long-term, legally binding and enforceable Governance arrangements for the community assets within the Gilston Area as part of the Planning Permission', 'Parklands and open space will be covered by a 'triple lock' of planning policy, restrictions in the planning permission and the transfer of land at the end of the development so that local people have ownership and control of their use in the future', 'The establishment of 'Village Bodies' for each of the six villages and a 'Strategic Community Body' for whole development to oversee long term Governance', 'Membership of the Strategic Community Body will include the current parishes and the new villages and therefore be accountable to local people', 'A Shadow Board will be established early in the process to ensure that residents can influence the development of the Landscape Masterplans and Village Masterplans and identify 'early wins' – projects of benefit to the community', 'A community Re-Investment Approach will be adopted which captures land value to invest £650 million in infrastructure and community assets to support the development', 'Business Plans will be produced to ensure that all community assets have identified and funded stewardship arrangements, including transfer to community bodies', 'Transparent reporting and monitoring arrangements will be established to ensure that commitments are delivered and developers are accountable'

Detailed governance proposals; based on individual village community bodies and an overarching strategic organisation to hold and manage community land, have been put forward by the applicant. These could accord with HGGT recommendations/ guidance, which suggests establishment of a Community Trust and Community Interest Company. The applicant is initiating a 'shadow' steering arrangements involving EHDC and existing community interests, including the parish councils.

There are, as yet, no specific proposals on stewardship itself.

HGGT's study of stewardship and governance sets a clear requirement for governance, but does not address practical planning permission requirements around stewardship, especially on liabilities, resident charges and business planning for viability. The LPA has advised the applicant that this must be considered as part of the POs.

This is a high risk area for all LA partners as they will always be seen as responsible for any legacy problems and organisational failures. Issues of leased residential property, with management companies /charging and infrastructure / public adoption failures have been nationally problematic in recent years.

LA partners must be mindful of potential future administrative boundary changes, or administrative structure changes, such as Unitaries when

- The need for a strong and effective backstop mechanism in case of failure of the community body has not been considered and agreed (this would probably involve the LA some way, usually through land ownership and long leasehold control)
- The applicant is beginning to create a framework inventory of land with liabilities that will be transferred to a community body for future management (e.g. public open spaces, sustainable drainage features, sports facilities, community buildings, some roads and routes), but this has not been shared with the LAs. As a result there is as yet no understanding of the scale of liabilities
- There is no approach to creation, maintenance, renewal and management specifications for liabilities (and potentially assets). This requires a standardised specification and maintenance standards document
- There is no indication of the proposed outline business plan for the community body (bodies), thus making it impossible to establish an adequate approach and financial provisions in POs
- There is no indication of how the landowner will create and use income earning community assets as part of the development property portfolio, giving some balance in business planning. This has important implications for the use of management companies and charges to residents. It also affects the future of village centre properties and employment land and premises
- There is no agreed, consistent, approach with V7 and this potentially complicates future arrangements
- Adoption and related stewardship arrangements affect the method of providing crucial digital infrastructure and there is as yet no evident strategy for this. This is an important issue for overall HGGT economic development aims and should be the subject of an appropriate strategy secured in POs

Suggested actions

- Clearly define final applicant offer in PO Heads of Terms (HoT) to enable decision, with outstanding points of concern taken into account in judging policy compliance and the overall planning balance
- Issue LA PO Instructions setting out / detailing the LA Partner position (a suggested approach to stewardship POs in a HGGT context including delivery of village centres and reservation of employment land has been put forward to the LPA by HDC)
- LAs to further consider, through the HGGT partnership, the appropriate position on potential backstop arrangements, including land /property transfer and holding

	<p>considering developments close to borders, as they may be required to inherit arrangements.</p> <p>The LAs have not fully considered what, if any, role they should take in providing a 'backstop' in case of future failure of a community body. There are corporate and property implications.</p>		
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