
APPLICATION NO.	20/00899/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	29.04.2020
APPLICANT	Sean Knowlson
SITE	Cobra Lodge, Upton Lane, Nursling, SO16 0YB, NURSLING AND ROWNHAMS
PROPOSAL	Use for overnight boarding for up to six dogs
AMENDMENTS	17 th June 2020 – additional comments from applicant 5 th June 2020 - response from applicant to representations received
CASE OFFICER	Miss Sarah Barter

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 The application is presented to Southern Area Planning Committee at the request of a Local Ward Member.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The site previously consisted of paddocks that have been used for the grazing of horses. More recently the site has been used by the applicant for dog training and day boarding. A small stream also runs parallel to the Upton Lane verge. A group Tree Preservation Order (TPO) designation boundary runs along the western boundary of the site and covers trees/land running to the west and north of the site. The site is also fairly flat, other than the sharp rising embankment of the adjacent motorway. A group of Grade II listed buildings and the Grade I listed building at Grove Place exist approximately 270 metres away to the north of the site.
- 2.2 Notwithstanding the proximity of the site to the M27 and its slip road, Upton Lane has the characteristics of a rural fringe with highway boundaries primarily demarcated with planting and pockets of development, both residential and commercial along its length.

3.0 PROPOSAL

- 3.1 Use for overnight boarding for up to six dogs.

4.0 HISTORY

- 4.1 19/01901/FULLS Erection of a canopy to provide cover in which to train during inclement weather conditions. Permission subject to conditions and notes 28.10.2019.

- 4.2 19/00781/VARS Vary conditions 3, 4 and 15 of 16/00957/VARS ((Change of use from agricultural land to a Security Dog Training Facility with associated ancillary rooms) to extend the opening hours of the facility from condition 4 and to remove the word "security" from condition 15) Condition 3 to allow a maximum of 12 dogs, Condition 4 to extend hours to 17.00 on Saturdays and Condition 15 to include day boarding. Permission subject to conditions and notes.
- 4.3 17/01707/VARS Vary conditions 3 and 4 of 16/00957/VARS (Change of use from agricultural land to a Dog Training Facility with associated ancillary rooms) to remove Condition 3, which limits number of dogs on site to 6, vary condition 4 and to extend the opening hours of the facility until 17:00 on Saturdays. Refused 03.12.2018.
- 4.4 16/00957/VARS Vary conditions 4 and 15 of 15/02631/VARS (Change of use from agricultural land to a Security Dog Training Facility with associated ancillary rooms) to extend the opening hours of the facility from Condition 4 and to remove the word "security" from Condition 15. Permitted subject to conditions 28.06.2016.
- 4.5 15/02631/VARS - Vary condition 8 of 11/00386/FULLS (Change of use from agricultural land to a Security Dog Training Facility with associated ancillary rooms) to allow 1.8 metre high gates and associated structure to support. Permission. 03.02.2016.
- 4.6 11/00386/FULLS - Change of use from agricultural land to a Security Dog Training Facility with associated ancillary rooms. Refused. Appeal Allowed – 08.12.2011 (Appeal ref: 2157760).
- 4.7 10/01147/FULLS - Change of use from agricultural land to a Security Dog Training Facility with associated ancillary rooms. Refused – 16.08.2010.

5.0 **CONSULTATIONS**

5.1 Highways – No Objection.

5.2 Environmental Protection – No Objections or comments.
(Decision reached following consultation with the animal warden).

6.0 **REPRESENTATIONS** Expired 04.06.2020

6.1 Nursling and Rownhams Parish Council – **Objection:**

- The application will significantly vary the conditions applied by the Inspectorate in 2011: 'no dogs, trainers or other animals or persons shall be accommodated overnight at the site'.
- The application does not provide any information as to how any potential impact on the local community; noise or traffic movements will be mitigated, in accordance with Test Valley Borough Revised Local Plan 2016 policies LHW4 and E2.

6.2 51B Upton Crescent, 9 Highcrown Mews Highfield, 492 Winchester road
Southampton, Grove Park, Upton Lane, Parnholt House, Parnholt Lane,
Unknown x 9 – **Support**

Existing development in the area

- I note with interest the numerous comments made by a few residents of Grove Place and find it quite laughable that they see fit to complain about this facility when Grove Place has massively expanded its facilities recently. Very hypocritical comments from people who seem to believe they live in the countryside, but in fact live next to two motorways. Do they believe they have a right to do as they wish, but to moan and object about others needs even when they are not directly affected. They are simply attempting to use the age card. Their comments are not factual at all and are purely speculative and vicious. As a small business owner myself I must take issue with people who seem to want to moan and cast aspersions, simply to make things difficult for others who just want to make progress.

Operation of the dog club

- I am a user of the Hampshire Dog Club, which is a well-run and professional facility. I use the field and have attended training with my dogs. The kennels face the motorway. You cannot even hear the dogs in the kennels from the car park side of the building. How could anyone at Grove Place a kilometre away hear anything? Ridiculous! The kennels are already in existence, built into the current building so no further development is required.
- This will enable dog owners to board their dog(s), in full confidence that they will be cared for safely and in line with regulatory standards.
- The Hampshire Dog Club is an extremely well run facility, owned & managed by highly responsible & knowledgeable individuals.
- It has been (& will continue to be) a pleasure for me to take my own dogs to Sean Knowlson for education & training purposes, & it is to the teams's credit that they have built such a comprehensive all round canine facility here.
- The granting of the licence application will enhance & compliment what is already an excellent facility.
- As a daily user of the club, an indoor training area will be better for the dogs and owners immensely. In particular, dogs scared by noise or those easily distracted by the dogs in the field.
- In addition, I cannot see any negative reasons why there should not be overnight boarding offered. There will no inconvenience to neighbouring properties both from customers using the facilities or adverse noise from boarded dogs.
- I am an owner of a dog that cannot just be handled by anyone and the trainers/staff at Hampshire Dog Club have done a fantastic job in helping me train my dog. They have shown the skills to be able to safely look after my dog and there is no one else I would feel comfortable leaving him with. My extended family live in Scotland so it

would be perfect to have him stay at Hampshire Dog Club when we do our regular visits there as well as when I go to visit my girlfriend in Cornwall on a monthly basis where she studies.

- I fully support this and cannot think of a single reason as to why this application should not be granted and I know it would definitely benefit me and my dog as well as many others.
- This is a service much needed by the community.

Noise

- I note that environmental health and highways had no objections to the previous application before it was revised. Therefore no nuisance has ever been caused by dogs at the facility. I also note that Test Valley Council have already inspected and granted an overnight boarding license a year ago, so it would seem the council have no issue.
- I think some people object to such applications just because they don't like dogs, without even looking at the facts. The building is nowhere near any residential, it's next to the motorway and would not bother anyone.
- I do not believe there will be a problem for neighbouring properties caused by dogs barking. Just because a dog has behavioural issues does not mean it will bark all the time. Dogs usually bark when someone approaches, and no-one would be able to approach this establishment unless they had entered illegally. In any case, there is no residential housing in close proximity and the noise from the M27 is constant.

Completion of existing planning permission work

- Regarding comments made about finishing the existing building, I have witnessed first-hand the substantive amount of planting and landscaping that has happened on the site with numerous hedgerows and trees maturing rapidly over the last couple of years.
- There have been a couple of comments made about the training canopy which was built in 2019. I actually helped with the groundwork's on this structure and it has planning permission. It is also nicely designed and discreet, so yet again unjustified comments as it cannot even be seen from Upton Lane.
- Some people objected to the previous application on grounds that landscaping etc is not completed yet. This is a small business that could not be expected to complete everything overnight, and yet, almost every time I visit, I see improvements being made in the layout of the site and planting of shrubs etc. in an attempt to fulfil the previous planning conditions.
- This is an application for a very small number of overnight boarders and given the state of the UK economy and the uncertainties which will follow the coronavirus pandemic, I believe we should be encouraging all small enterprises to expand and grow their businesses.

- 6.3 22, 33, 44 Paget House, 30, 35, 42, 46, 48 Northcliffe House Grove Place, Station Road Nursling, Inglenook Cottage, 3 Mill Lane, Unknown x4 – **Objection**

Planning History

- It is important to remember that planning permission was granted for the change of use from agricultural land to a Security Dog Training Facility with associated rooms on appeal following refusal by Test Valley Borough Council. On allowing the appeal the Inspector considered that the proposed use "would be akin to the approved use of the keeping of horses, provided it remained small in scale". The Inspector referred to a number of conditions (as suggested by this Council in the event of the appeal being allowed).
- To quote the Inspector's Appeal decision: "Conditions in respect of materials, trees, landscaping and boundary treatment are needed to ensure a satisfactory appearance. Conditions limiting the number of dogs brought on the site, the hours of operation, the removal of permitted development rights and preventing overnight accommodation are needed to ensure that the use remains at a level which does not result in harm to the character and appearance of the countryside or to the living conditions of neighbours".
- The Inspector's decision included 17 very specific conditions to ensure the above, including what was to become Condition 15 which states that: "The site and buildings subject of this planning permission shall be used for a training facility for security dogs only and shall not be used for any other purpose, including boarding kennels".
- There have been repeated attempts to erode the conditions that the Inspector considered were essential to make this application acceptable. Permission has already been granted to remove the restriction allowing use for training security dogs only and to extend the time and days of operation. This is yet another example of the applicant trying to water down the conditions.
- Permission for this proposed change of use should be REFUSED therefore as allowing overnight boarding for up to six dogs would fundamentally change the use permitted at appeal.
- It should also be noted that there is a sign at the entrance to Cobra Lodge already promoting - 'Boarding Kennels (5 Star Rated)'.
I can also confirm that work has already begun on the site in preparation for the construction of the kennels. A digger has been on site digging out the foundations.
- The applicant has also failed to comply with other conditions including landscaping, and has not completed the building satisfactorily, (as cladding to part of the front of the building has not been applied exposing the underlying breeze blocks).

Overdevelopment

- The applicant has over developed the site way over and above the present business.

Noise

- I understand the site is unattended during overnight periods and animals would suffer stress and anxiety and create excessive noise/barking.
- Comments from supporters of the application make reference to reactive or badly behaved dogs. This clearly demonstrates that noise will be a significant problem. This will create a nuisance
- Set out below is an extract from an article appearing in the May/Jun 2016 issue of "Acoustics Bulletin". It is noteworthy in the light of the article that Grove Place is some 450 metres from the proposed site (our emboldening for ease of reference). *The number of dog boarding kennels in the UK and Ireland is currently estimated at more than 4,500, with at least an additional 1,000 animal welfare establishments. One of the key issues affecting such establishments is dog vocalisations, chiefly barking, but which may also include whining, howling and yelping (DEFRA, 2005). Barking may be audible over extended distances, giving rise to nuisance at up to 500 m (EPA Victoria, 2008). On occasions, a number of dogs may contribute to an extended barking frenzy, giving rise to potentially severe noise nuisance at neighbouring dwellings (An Bord Pleanála, 2001; Manley v New Forest DC, 2007).*

Fencing on boundary

- I rent the field next to the site for my horses. I've recently been intimidated by the proprietor of the site about fencing. When I went to see him to ask what was wrong he was quite aggressive. No fencing was compromised. My horses have been in the ground for 6 years without getting bitten or any dog related problems. The 6ft inner fence he was supposed to erect for protection was only instated by him after he tried to bully me into erecting one within my perimeter. My horses also miraculously ESCAPED twice in a four day period. I imagine with a little help. The safety implications for the public are self-explanatory. I have put a secondary fence within my side so the horses cannot put their heads over his side to keep the peace at my expense.

Danger of escape

- With dogs left on site overnight I feel this would be a danger. There was an incident a few years ago of his guard dogs escaping from a compound and killing local residents pet rabbit's and goats because they were hungry. Although this was a long time ago I saw the aftermath of this and I'm not wanting anything like that to happen to my animals.

Residential dwelling

- The lack of supervision overnight has obvious safety implications for the dogs, this means the application inevitably be followed by an application for overnight presence and accommodation.
- I also feel that if this planning is approved it will inevitably lead to further applications in the future eventually leading to residential.

Neighbouring development

- My wife and I are very concerned by the persistent attempted erosion of the peace of this rural setting by the gypsies' constantly continuing to ignore of the terms of their approval; incidentally no action has been taken to deal with that infringement. Now this seemingly unjustified planning application re the dog kennel area.

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

7.2 Test Valley Borough Revised Local Plan (2016)(RLP)

- COM2 Settlement Hierarchy
- LE16 Re-use of buildings in the countryside
- E1 High Quality Development in the Borough
- E2 Protect, Conserve and Enhance the Landscape Character of the Borough
- E8 Pollution
- LWH4 Amenity
- T1 Managing Movement
- T2 Parking standards

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- Principle for development
- Impact on the surrounding area
- Impact on neighbouring properties
- Highway safety and parking provision

8.2 **Principle of development**

The application site is located in the countryside within the Revised Borough Local Plan 2016. Local Plan Policy COM2 establishes a hierarchy of settlements in the Borough and states that development outside the boundaries of settlements will only be permitted if (a) it is appropriate in the countryside as set out in the local plan policies or (b) it is essential for the proposal to be located in the countryside.

8.3 The principle of the use of the land as a dog training centre was accepted in the 2011 Appeal decision and subsequent permitted variations. These variations developed the initial permitted Security Dog Training Centre, into a Dog Training Centre for dogs in general including domestic dogs. Whilst comments have been received in respect of the 'watering down' of the initial appeal decision this application does not seek to vary the original permission. Instead a new full application is under consideration over 8 years after the 2011 appeal decision and regard must be had to the need to support economic growth and productivity, taking into account local business needs.

Paragraph 80 of the NPPF 2019 states that *Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.*

- 8.4 The applicant has advised that in this time it is clear that the Hampshire Dog Club business has grown. As with any business it must evolve to meet the requirements of its clients. The applicant has identified a need for overnight accommodation for dogs from existing users of the training centre, as many rescue centres who employ inexperienced staff simply cannot handle them or are not willing to accommodate them. The applicant advises that this does not mean these types of dogs will bark incessantly or without good reason, it simply means they are not always handler friendly and require a suitably competent person to ensure their needs are met. The information submitted sets out that the Hampshire Dog Club are an approved training centre for the National Association of Security Dog Users and attract working dogs and their handlers from outside the local area for training.
- 8.5 The site already benefits from permission for day boarding for dogs and it is not considered that the addition of overnight boarding within existing facilities would create any harm to the surrounding countryside which policy COM2 seeks to protect. Furthermore for this business to expand and adapt it is essential for this proposal to be located in this countryside location where it is already established in accordance with policy COM2.
- 8.6 Regard should also be had to policy LE16 which is a policy outlined within criterion a) of policy COM2 in that the proposal seeks to use an existing building set within the countryside.

Policy LE16 allows for the re-use of buildings in the countryside for commercial use provided that:

- a) The building is structurally sound and suitable for conversion without substantial rebuilding, extension or alteration; and
 - b) The proposal would not result in the requirement for another building to fulfil the function of the building being converted; and
 - c) The proposed use restricted primarily to the building; and
 - d) Development would lead to an enhancement of its immediate setting
- 8.7 The building where the overnight boarding would occur is already on site to provide for the permitted uses at this site and the 3 kennels are in operation as a day boarding facility. Furthermore no further building work is required to accommodate the overnight boarding. As such this policy is not considered to be relevant to the proposal.

8.8 The impact on the character of the area.

The character of the area is assessed in Test Valley Borough Revised Local Plan (RLP) policy E2: Protect, conserve and enhance the landscape of the Borough. This policy permits development that has no detrimental impacts on the appearance of the immediate area and landscape character of the Borough.

8.9 It is not considered that increased boarding overnight would create any intensification in this respect which would result in harm to the local landscape. As such it is considered that the character and appearance of the Borough would be protected, conserved and enhanced as a result in accordance with policy E2 of the Revised Borough Local Plan 2016.

8.10 Amenity impact

Amenity is addressed in RLP policy LHW4: Amenity. The site has no immediate authorised residential neighbours but comments have been received in respect of noise concerns from residents in the wider area with a quote from 'Acoustics Bulletin' being provided in terms of potential impacts from a high number of dogs on a site. Policy E8 concerns pollution including noise impacts. The original appeal decision (ref: 2157760) at paragraph 11 specifically discusses noise implications on residents of Grove Place. The inspector highlights that the motorway provides considerable background noise and then states that the eastbound vehicles on the M27 are climbing the slight gradient and in the inspectors judgement the noise of barking dogs from the site would not have a material effect on the living conditions of residents in this context. The inspector also states that it is not considered that the occasional barking would cause any significant harm to users of the ground of Grove Place.

8.11 Within paragraph 15 of the appeal decision appropriate conditions are discussed it states that conditions limiting the number of dogs bought on to site, the hours of operation, the removal of permitted development rights and preventing overnight accommodation are needed to ensure the use remains at a level which does not result in harm to the character and appearance of the countryside or the living conditions of neighbours. As discussed above it is not considered that the proposals to provide overnight boarding would have any significant impacts on the surrounding countryside. Furthermore the Borough Environmental Health department has no objection to the application considering the facility to be very well located with good separation from neighbours, and in an area of high background noise levels. The TVBC animal warden has confirmed that he considers the premises to be suitable for overnight boarding and has no concerns about the proposition. As part of the ongoing licencing reviews necessary for all such facilities the warden knows the premises and will continue to have oversight of the management as part of the licensing process.

8.12 The case officer has been to the site and the kennels are housed within the centre of the existing building, surrounded on three sides by corridors and other rooms which create barriers to any noise from the dogs. The applicant advises that all three kennels are built using high density concrete blocks on

the north, east and west sides. The south facing side of the kennels are steel bar frames facing a seven-foot mature hedgerow, the training fields and canopy with the M27 motorway beyond. All steel fronts have lockable doors.

- 8.13 The submission sets out that to the north side of the kennels there is a 1.2m wide corridor which forms an air gap between the kennel wall and the outside of the building. The north side external corridor wall is double skinned blockwork containing cavity insulation. The building has external cladding which adds a further sound barrier and is dry lined and skimmed on the internal side. To the east of the three kennels is another 1.2m corridor and additional rooms which are 2.5m wide. Internal walls are concrete blockwork, dry lined and skimmed, with all external walls double skin blockwork, cavity insulation with external cladding. The west side of the three kennels are adjacent to the 3m wide classroom, 2m wide classroom and offices. The corridor, rooms and methods of construction contribute to creating sound barriers between the kennels and the neighbours in the wider area.
- 8.14 The applicant has advised that no dog will bark unless stimulated by something that triggers the specific behaviour. Even normally quiet dogs will bark if being territorial at home when triggered. The inspector who granted the 5 star overnight boarding license states; *“Build structure means noise is thrown towards the M-27..... The dogs only reacted to people in very close proximity.”* The applicant advises that due to the location and the fact the kennels face the motorway, there is no reason for the dogs to bark unless someone is illegally trespassing on the land in front of the kennels. No dog would be boarded with another dog who is unknown to them. The requirement is for dogs from the same household to be kennelled together, which is good for them and the owners.
- 8.15 Concern was also raised about potential overnight accommodation for staff and queries around how the dogs will be monitored. As detailed in the overnight boarding assessment carried out by Rod Mason the animal welfare officer for TVBC and prior to his approval for an overnight boarding license in 2019, all three kennels have CCTV cameras installed which monitor and record at all times. These are also infra-red so can still see at night. The applicant advises external and internal areas of the building also have CCTV cameras which monitor and record continuously. This makes it impossible for anyone to approach the kennels without being seen. The applicant confirms that all cameras can be monitored remotely via a mobile phone. The building has an intruder alarm system which is monitored by an external alarm receiving centre to notify of any activations. Random mobile security patrols are carried out on the premises during the night to confirm that the dogs are safe and settled. All these security arrangements are designed to act as a deterrent and to make the premises as secure and safe an environment as possible to avoid the need for an employee to be on site overnight. The submitted information confirms that the dogs are exercised in an on-site secure field and fed just prior to locking the building for the night.

- 8.16 Given the Environmental Health Officer has confirmed that there are no concerns in respect of noise and taking into account the dogs will be boarded in existing kennels which face out towards the motorway and monitored overnight it is not considered that the proposal would not result in a significant impact in noise. Similar to the recommendation of the 2011 appeal decision a condition is considered appropriate to ensure the amount of overnight dog borders is limited to up to six to be accommodated in the existing kennels. Subject to this condition, the proposed development is considered to comply with polices LHW4 and E8 of the Revised Borough Local plan 2016.
- 8.17 **Highway safety and parking**
Highways issues are addressed in RLP policy T1: Managing Movement, whilst RLP policy T2 addresses parking standards. Annexe G of the RLP has no parking standard specific to a dog training centre, but requires kennels to provide 1 space per 5 animal kennels.
- 8.18 The application proposes overnight boarding for up to 6 dogs. More than 2 spaces are provided on hard core at the front of the application site with ample space for turning and further parking. The Highways Officer has no objection to the proposal.
- 8.19 It is considered that the application for variation of this condition would not result in additional highway safety impacts in terms of vehicles obstructing the highway or parking. The proposal is therefore considered to be in accordance with Policies T1 and T2 of the Test Valley Borough Revised Local Plan (2016)
- 8.20 **Other matters**
A query has been raised in respect of future applications for the applicant to apply for permission of on-site residential accommodation. This application is for overnight kennels for up to 6 dogs only. The applicant has advised that no on site accommodation is required. There are security cameras monitoring the dogs at all times should a presence on site be required. Any residential overnight accommodation would require a further planning application for consideration.
- 8.21 Comments have been received about the existing main building and its current appearance. Only approx. one third of the building is clad, the rest remains as concrete blocking. The Planning Officer has viewed the building and notes the incomplete cladding. Given the build has commenced within the appropriate time the cladding can be completed at any time. The applicant has advised that this will be completed.
- 8.22 Representations have been made in respect of other development on site. The Enforcement Officer has confirmed that the landscaping does not accord with the approved plans. This issue was reported to enforcement in December 2018. Following an investigation it was concluded that it was not expedient for the LPA to pursue enforcement action in respect of this breach of condition.

The marquee which was on site was the subject of an Enforcement Notice, this was appealed, and dismissed by PINS. The marquee was removed from the site and no further action was taken. The replacement metal structure benefits from planning permission under planning reference- 19/01901/FULLS.

- 8.23 Comments have been received in respect of neighbouring boundary treatments and escaped dogs. The applicant has confirmed that the occupier adjacent the application site was written to as there was concern about horses putting their heads through the section of deer proof fencing, potentially getting nipped by a dog. The occupier reinstalled a secondary fence she had previously removed which prevented their intrusion. The applicant advises that horses have not been let out of the adjacent field. Furthermore no dogs have ever escaped from the application site and have certainly never killed any rabbits. No German Shepherd is quick enough to catch and kill rabbits.

9.0 **CONCLUSION**

- 9.1 The proposed use is considered acceptable as it would not be harmful to the rural character of the immediate area and would not result in a significant detrimental impact on highways safety or neighbouring amenity. Subject to appropriate conditions the development is considered to be acceptable.

10.0 **RECOMMENDATION**

PERMISSION subject to:

1. **The development hereby permitted shall be begun within three years from the date of this permission.**
Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. **Overnight boarding for up to 6 dogs shall be undertaken in the approved kennels in the existing building only.**
Reason: In order that the Local Planning Authority can exercise control in the locality in the interest of local amenity and to protect the character of the local area in accordance with Test Valley Borough Revised Local Plan (2016) policies E2 and LHW4.
3. **The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers**
Site location plan
Reason: For the avoidance of doubt and in the interests of proper planning.

Note to applicant:

1. **In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions**
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