

## **Cabinet – 13 December 2017**

### **Walsall Local Plans:**

#### **Proposed Examination Modifications to the Site Allocation Document (SAD) and Walsall Town Centre Area Action Plan (AAP)**

**Portfolio:** Councillor Lee Jeavons,  
Deputy Leader and  
Portfolio Holder Regeneration

**Related portfolios:** All

**Service:** Regeneration and Development

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

### **1. Summary**

- 1.1 The Site Allocation Document 'SAD' and Area Action Plan for Walsall Town Centre 'AAP' were submitted to the Secretary of State for examination by the Planning Inspectorate on the 7th June 2017. The SAD examination hearing sessions opened on Tuesday 5th September 2017 and closed on Thursday 21st September 2017 following six days of hearings. The AAP examination hearing Sessions opened on Monday 16th October 2017 and closed on Wednesday 18th October following three days of hearings.
- 1.2 The Inspector appointed to examine the SAD and AAP has completed the hearings into the soundness of the plans. Before he completes his reports the next stage of the examination process is consideration of modifications that might be needed to be made. Whilst officers felt that discussions at the examinations were generally positive, the Inspector has proposed that a number of 'main' modifications should be made to the SAD and AAP to address matters of soundness. This requires an additional phase of public consultation.
- 1.3 This report therefore seeks approval for the following.

- i. Consultation on proposed Examination Main Modifications as recommended by the Inspector. The proposed Examination Main Modifications to the SAD and the AAP are provided as Appendices Ai) and Aii) to this report.
  - ii. Consultation on proposed Examination Minor Modifications that have been suggested by the Council for completeness to, for example, provide factual updates. The proposed Examination Minor Modifications are provided as Appendices Bi) and Bii) to this report.
- 1.4 If authorisation is granted to undertake consultation on the modifications all of the main and minor modifications from the examination will be published on the Council's website and referred to in correspondence with all of those who have been involved in the consultations on the plans so far. Copies of the Examination Modifications will be made available at the Civic Centre and in libraries.
  - 1.5 It is proposed that the consultation should start as soon as possible after the Cabinet meeting, allowing for the Christmas break.
  - 1.6 Following consultation, any representations received by the Council will be conveyed directly to the Inspector and he will take them into account when completing his reports on the SAD and AAP. Once the Inspector's reports are published, provided that the Inspector finds the SAD and AAP to be sound, they can then be amended to reflect the agreed main and minor modifications before the plans can be adopted. Adoption will require a resolution of Full Council, and to facilitate this it is proposed that Cabinet should agree – provided the substance of the proposed main and minor modifications is not changed through the remainder of the examination process – to recommend to Council (for a meeting in in spring 2018) that Walsall's SAD and AAP should be adopted with the proposed modifications.
  - 1.7 Cabinet members have received a full copy of the appendices and copies have been placed in political group rooms. A copy of the appendices are also available on the committee information pages of the Council's website.

## **2. Recommendations**

- 2.1 That Cabinet agrees to publish materials for consultation on the Proposed Examination Modifications consultation for:
  - a) Walsall Site Allocation Document (SAD)
  - b) Walsall Town Centre Area Action Plan (AAP)
- 2.2 That Cabinet authorises the Head of Regeneration and Development, following consultation with the Executive Director, Economy & Environment, and the Portfolio Holder Regeneration, to propose any additional minor modifications that have been identified by officers between this Cabinet date and the start of the modification consultation, to be consulted on as part of this consultation.

- 2.3 That Cabinet agrees the consultation should begin in January and should run concurrently for 6 weeks.
- 2.4 That – provided the substance of any of the modifications is not significantly changed through the remainder of the examination – Cabinet recommends to Full Council that Walsall’s SAD and AAP (including the modifications) is formally adopted as part of the Local Plan for the borough.

### **3. Report detail**

#### **Background**

- 3.1 The Black Country Core Strategy (BCCS), adopted in 2011, provides an overall plan for the regeneration of the Black Country (covering Dudley, Sandwell and Wolverhampton, as well as Walsall). When it was found sound, via an examination in public, the Planning Inspectors who considered it were clear that more detailed plans would be necessary to implement the strategy. Sandwell has prepared a borough-wide Site Allocations Document and a plan for the centre of West Bromwich, Dudley has prepared several Area Action Plans (including for Brierley Hill) and has recently been through the examination of a ‘Development Strategy’ document (setting out site allocations and development management policies), and Wolverhampton has prepared Area Action Plans and has recently been through the examination of a Plan for the city centre.
- 3.2 The Core Strategy and the other development plan documents together form the statutory Development Plan (also known as the Local Plan). The Local Plan shows where new homes, land for industry and other land uses should be located, and the assets such as the Green Belt, open space and sites of nature conservation importance that should be protected. It forms the basis of decisions on planning applications and other strategic decisions by the Council and other bodies.
- 3.3 In June 2011, Walsall’s Cabinet approved the preparation of two documents.
  - a) The SAD to allocate sites for development for housing, employment and other uses across the borough (except for town and district centres); and
  - b) The AAP for Walsall Town Centre, to allocate sites for development and to propose improvements to support the town centre;
- 3.4 The process for making statutory development plans is set out under the Planning and Compulsory Purchase Act 2004 (which describes them in terms of the Local Development Framework, although the Government now prefers to call them ‘Local Plans’). The process requires consultation on ‘Issues and Options’ leading to an explicit choice of ‘Preferred Options’ before the council is required to produce a ‘Publication’ version of its plan(s) for consultation before submission to the Secretary of State.

- 3.5 The consultations undertaken by the Council have been in several stages.
- i. In 2011 and 2013-2014 the council undertook 'call for sites' exercises (to see if anyone wanted to propose sites for development).
  - ii. In April-June 2013 the council carried out a major consultation on 'Issues and Options' for the SAD and the AAP.
  - iii. In September–November 2015 after careful consideration of the representations received plus the commission and consideration of evidence around issues such as housing and employment land delivery for the SAD and retail and office demand for the town centre, the Council consulted on 'Preferred Options' Draft.
  - iv. The most recent major stage of consultation was about 'Publication' Drafts of the SAD and the AAP. This took place from 7<sup>th</sup> March – 3<sup>rd</sup> May 2016.
  - v. This consultation resulted in some Pre-Submission Modifications being proposed by the Council and these were consulted on 7<sup>th</sup> November – 19<sup>th</sup> December 2016.
- 3.6 Authorisation was then sought from Cabinet on the 15<sup>th</sup> March 2017 for some Further Proposed Modifications as part of seeking Cabinet permission to submit the two plans to the Secretary of State for examination. These were only minor modifications and were therefore not subject to consultation.
- 3.7 Finally authorisation was sought from Council on the 10<sup>th</sup> April 2017 to submit the SAD and AAP to the Secretary of State.

### **The Proposed Examination Modification Consultation**

- 3.8 The SAD and AAP were submitted to the Secretary of State for examination by the Planning Inspectorate on the 7<sup>th</sup> June 2017. The SAD examination hearing sessions opened on Tuesday 5<sup>th</sup> September 2017 and closed on Thursday 21<sup>st</sup> September 2017 following six days of hearings. The AAP examination hearing Sessions opened on Monday 16<sup>th</sup> October 2017 and closed on Wednesday 18<sup>th</sup> October following three days of hearings.
- 3.9 The Inspector examined both plans to assess whether they meet the legal and procedural requirements along with policy tests of 'soundness' which mean that plans must be:

**Positively prepared**– does the plan allocate enough land to meet all needs for the various uses where it is reasonable to do so and consistent with placing development in the right locations?

**Justified**– is the plan the most appropriate strategy when considered against reasonable alternatives?

**Effective**– can the proposals in the plan be delivered over its period? and

**Consistent with national policy**– is the plan in accordance with national policies?

- 3.10 As a result of the issues discussed at the examination the Inspector has made a number of recommendations for modifications that he considers will be required to make the plans ‘sound’. These can be summarised as follows:

### **Walsall SAD Proposed Examination Main Modifications**

**Note these modifications are with the Planning Inspector for consideration and could therefore be subject to change.**

#### **General**

- i. Reference in the introduction of the plan to an appendix that sets out the Saved and Superseded UDP Policies.
- ii. Updating of the status of sites within the plan to reflect insofar as possible the position at March 2017.

#### **General Housing**

- i. Amendments to the Policy HC1: Land Allocated for New Housing to clarify the amount of housing land allocated to clearly demonstrate the plan can meet Walsall’s housing needs up to 2026 and to strengthen the policy approach towards proposals for alternative uses.
- ii. Amendments to Policy HC1: Land Allocated for New Housing and HC4: Accommodation for Gypsies, Travellers and Travelling Showpeople to remove the dual allocations that proposed some sites might also have to provide accommodation for travellers, as certainty should be provided for travellers to be accommodated on sites identified for this purpose (notably at Dolphin Close in Goscote). Thus sites at Goscote Lodge Crescent (HO27), Goscote Lane Copper Works (HO29) and the former Metal Casements (HO62) are proposed to be allocated simply for housing.
- iii. Alteration to the site boundary of HO303 Land at Heathfield Lane West, Darlaston to include Ward’s Pool SINC in response to representation at the examination and to ensure that the SINC is addressed through any future planning application for site.
- iv. Additions to Policy HC3: Affordable Housing and Housing for People with Special Needs policy justification to clarify the policy’s approach to accessibility and densities in response to representations to the plan at the examination.

#### **Accommodation for Gypsies, Travellers and Travelling Showpeople**

- i. Addition of site HO14b Croft Street Willenhall to existing traveller sites as the site has planning permission for one pitch.
- ii. Deletion of sites GT5 Cartbridge Lane and GT6 34-38 Gould Farm Lane from Policy HC4 as the sites lie within the Green Belt, and allocating them in the SAD would not be consistent with national policy.

- iii. Deletion of sites HO157a former Autocraft, Walsall Road, Walsall Wood and HO157c Jubilee House from the list of proposed new showpeople sites in response to representations to the plan and current planning discussions as the sites are unlikely to be delivered during the plan period for showpeople's accommodation.
- iv. Changes to Policy HC4 to clarify the number of sites (pitches or plots) being allocated and how this relates to the BCCS targets.
- v. Update to the Policy Justification to reflect changes to national policy and evidence for the SAD.

### **Providing for Industrial Jobs and Prosperity**

- i. Amendments to the chapter introduction to include a table that summarises the supply of employment land against each of the different categories to show how the plan is allocating sites to meet the BCCS targets.
- ii. Amendment to policies IND2 and IND3 to clarify the policy approach towards proposals for non-employment uses on employment land. Whilst employment sites are to be protected, it is to be acknowledged that the BCCS will allow non-employment uses in certain circumstances where the uses can be shown to support, maintain or enhance the business and employment function of the area.
- iii. Alteration to site IN98.2 Former Railway Tavern, James Bridge, Darlaston to change its categorisation from Vacant Potential High Quality Industrial Sites in Policy IND2 to Vacant Retained Local Quality Industry in Policy IND3 to reflect the quality of the site and the constraints upon it.
- iv. Amendments to notes on site IN122 Former Moxley Tip to provide clarity to the Council requirements or the site in terms of leisure and recreation provision and its relationship with the adjoining site HO303 Land at Heathfield Lane West.

### **Open Space, Leisure and Community Facilities**

- i. Addition to Policy LC11: Land for Cemetery Extension, Bentley Lane to clarify that the site will remain in the Green Belt and therefore be subject to Green Belt Policies.

### **Environmental Networks**

- i. Deletion of Policy GB2: Control of Development in the Green Belt and Countryside, as it repeats existing policy, with amendments to Policy GB1: Green Belt Boundary to encompass the remaining elements of GB2 that covered control of development in the Green Belt.
- ii. Amendments to footnote for Policy EN3: Flood Risk to ensure flood risk in relation to future minor development at existing mineral and waste sites is assessed proportionately in line with evidence of risk, as agreed with those who made representations on the plan during the examination.
- iii. Amendments to Policy EN4: Canals and the Policy Justification to reflect discussions at the examination around the restoration scheme for the Hatherton Canal and the need to meet the requirements of the Habitats Regulations.

- iv. Amendments to Policy EN5: Development in the Conservation Area to include wording relating to preservation, to ensure consistency with national policy and legislation.
- v. Detailed amendments to Policy EN7: Great Barr Hall and Estate and St. Margaret's Hospital and the Policy Justification to better reflect how the legislation and policy should be applied to this site.

#### **Sustainable use of Waste**

- i. Deletion of site IN98.2 Former Railway Tavern from Potential Waste Site WP11, reflecting the constraints affecting Former Railway Tavern site, as agreed during the examination.

#### **Sustainable use of Minerals**

- i. Update of Policy M6 Brickworks following the granting of permission to expand Atlas Quarry in February 2017.
- ii. Update of Policy M7: Brick Clay Extraction – Stubbers Green following permission for the expansion of Atlas Quarry onto the 'Recordon Land' in February 2017.
- iii. Update of Policy M8: Brick Clay Extraction – Highfields South Landfill following grant of permission to extend the life of the landfill in September 2016.

### **Walsall AAP Proposed Examination Main Modifications**

**Note these modifications are with the Planning Inspector for consideration and could therefore be subject to change**

- i. Reference in the introduction of the plan to an appendix that sets out the Saved and Superseded UDP Policies.
  - ii. Amendment of reference throughout the plan to the 'AAP Policies Map' to simply the 'Policies Map' for consistency with the terminology in national policy and legislation.
  - iii. Amendments to reference to the Community Infrastructure Levy (CIL) following the Council's decision to postpone work on CIL.
  - iv. Amendments to Policy AAPLE2: Sport and Cultural Facilities to remove the proposed extension to the leather museum and to up-date the part of the policy referring to the library to include the proposal to relocate the local history centre. This is to reflect the Council's current position on the facilities.
  - v. Addition of references to the Drill Hall Grade II listing to ensure this is given consideration in future development proposals for the area.
- 3.11 The Policies Map is not a development plan document and therefore it is not appropriate for the Inspector to recommend modifications to it. The role of the Policies Map is to illustrate geographically the application of policies in the plan. Therefore any alterations to the Policies Map are included with the Council list of Proposed Examination Minor Modifications.
- 3.12 This stage of consultation is only about proposed modifications and no other aspects of the plans. It is important to note that the main modifications are the Inspector's so the Council (or Cabinet) cannot suggest changes to those modifications at this stage: the decision for Cabinet is to agree that the main modifications should be consulted upon. Also, the main modifications are put

forward without prejudice to the Inspector's final conclusions on the plan. All of the representations on the Proposed Examination Main Modifications will be for the consideration of the Inspector. The consultation will also make it clear that the Proposed Examination Minor Modifications are not to be considered by the Inspector but that they have been published alongside the Proposed Examination Main Modifications for completeness and if they are the subject of representations the Inspector will be able to decide whether or not to consider them.

### **Application of weight to the emerging SAD and AAP Policies**

3.13 Paragraph 216 of the NPPF says:

*“From the day of publication, decision-takers may also give weight<sup>40</sup> to relevant policies in emerging plans according to:*

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

<sup>40</sup> *Unless other material considerations indicate otherwise.”*

3.14 Walsall's SAD and AAP were 'published' in March 2016, since that time the plans have moved further through the preparation process, including with the examination hearings held in September and October.

## **4. Council priorities**

4.1 The Local Plan provides the statutory framework within which the Council should make decisions about the use and development of land. The borough-wide SAD and Walsall Town Centre AAP are to enable this through policies that support the Council's priorities whilst taking forward the regeneration strategy of the Core Strategy. They will give direct support for the Council's priorities (as set out in the Corporate Plan 2017 – 2020) by allocating land for development - including for housing (including affordable housing), for industry and business, including for investment in the town centre - and by protecting the environment. By doing these things within a framework for sustainable development these plans should help to meet the Council's priority of ensuring Walsall people *“have access to jobs so economic benefits are felt in each of our communities”* and that *“Walsall is a clean, safe and healthy place, with the right housing to meet need, accessible to all and with a strong sense of belonging and cohesion.”* They should also help all of those



who are concerned with the future use of land and premises to plan for the future.

## **5. Risk management**

- 5.1 Failure to have an adopted Local Plan, based on sound evidence, could result in the borough having insufficient land to meet the need for housing, employment and other land uses that are necessary to meet the needs of residents and to support the economic and environmental well-being of the area. It could also result in development being placed in the wrong locations, leading to an inefficient use of resources, the loss of sites to meet local needs and to accommodate much-needed investment, traffic congestion, damage to the environment and other harm. Having a Local Plan in place is also essential to defend the Council's position in planning appeals and in justifying regeneration proposals and bids for resources.
- 5.2 The legal and procedural requirements for the preparation of the plans present potential risks. The Government's policy requirements mean plans have to be found 'sound' in that they should be:
- positively prepared (to meet the needs of the area);
  - justified (considered against reasonable alternatives and based on evidence);
  - effective (deliverable); and
  - consistent with national policy.
- 5.3 To mitigate the risks that might impede the adoption of the plans, it is important to meet the legal and procedural requirements and to ensure that policies and proposals across all of the issues relating to and/or addressed by the plans dealt with are well-considered and properly justified. Consultation, including about proposed modifications, is an important part of this.

## **6. Financial implications**

- 6.1 No new implications arise from the recommendations of this report. The costs of preparing the plans and submitting them for examination are being met from existing and ear-marked reserve budgets authorised previously by Council.
- 6.2 There are potential financial risks that would arise if the Council failed to have an up to date development plan. The Government has stated that it would be likely to take account of whether or not authorities have up to date Local Plans when assessing and rewarding (or sanctioning) authorities' planning performance. In addition to Government grants, support for new development will also be likely to generate Council Tax and Business Rates income and it is therefore important that the SAD and AAP are adopted as these help to promote development (in a sustainable way).

- 6.3 Up-to-date Local Plans should also have financial (as well as other benefits), in enabling Development Management to function more efficiently, justifying the council's position at planning appeals and supporting bids for regeneration funding.

## 7. Legal implications

- 7.1 Formal 'Local Plans' are the basis of the planning system. The Planning and Compulsory Purchase Act 2004 (Section 38(6)) requires that where a planning decision is to be made *"the determination must be made in accordance with the plan unless material considerations indicate otherwise"*.
- 7.2 Under the Town and Country Planning (Local Planning Regulations) 2012 (Regulation 5), any document that allocates sites for particular types of development has to be a local development document (otherwise known as a 'Local Plan'). This means the proposed documents will have to be prepared according to requirements set down in legislation (including the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, related regulations, EU Directives especially on Strategic Environmental Assessment and on Habitats)<sup>1</sup> and Government Policy (particularly in the National Planning Policy Framework). Any planning document for Walsall has to also be consistent with the Black Country Core Strategy.
- 7.3 The preparation, content and delivery of plans and proposals has to also take account of potential impacts in terms of matters that are the subject of other legislation (such as equalities; Listed Buildings and Conservation Areas; and the environment and nature conservation).
- 7.4 The SAD and AAP documents are being prepared in accordance with the approach to consultation as set out in legislation and national policy, as well as in the Council's Statement of Community Involvement. The work on the plans requires continuing positive engagement with nearby local authorities and with various statutory bodies under the 'Duty to Cooperate' introduced by the Localism Act 2011.
- 7.5 The Government strongly encourages authorities to have up-to-date plans, and the 2004 Act (as amended) requires that each authority should maintain a Local Development Scheme for plan preparation and that it should monitor the implementation of its plans. The Housing White Paper, published in February 2017, proposed that having an up-to-date Local Plan should be a statutory requirement. It states that authorities failing to ensure an up-to-date plan is in place are failing their communities, by not recognising the homes and other facilities that local people need, and relying on *ad hoc*, speculative development that may not make the most of their area's potential. A recent statement by the Secretary of State has said that the Government intends to bring the White Paper proposals into law and announced possible

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<sup>1</sup> EU Directives and UK legislation deriving from the EU will continue to have effect unless or until rescinded, replaced or amended.

Government intervention where certain local authorities (all so far outside the West Midlands) have failed to make progress in preparing Local Plans.

## **8. Property implications**

- 8.1 One of the aims of the SAD and AAP will be to ensure land is allocated to meet the future land and property requirements of the borough in the most appropriate locations. Within the framework of planning policy Council and other assets have been taken into account where new facilities might be needed, existing provision improved or land or premises might be surplus to requirements. One of the Proposed Examination Main Modifications to the Town Centre AAP reflects the Council's plans for the library, local history centre and leather museum which are Council property assets.

## **9. Health and wellbeing implications**

- 9.1 No direct implications arising from this report however the objectives of the SAD and AAP include to ensure that the provision and siting of new developments contributes to the health and well-being of residents of the borough. For example the location of development should help avoid exposure to pollution as well as providing opportunities to promote access by walking and cycling. Also, providing for the housing and economic needs of residents should have health benefits and planning to meet needs for housing and other activities should help planning for health and leisure facilities. Preparation of the SAD and AAP includes the carrying out of an integrated Sustainability Appraisal, Equality Impact Assessment and Health Impact Assessment.

## **10. Staffing implications**

- 10.1 The majority of the work is being carried out by officers in the Regeneration and Development Service with others in the Economy and Environment Directorate, together with other officers on a range of matters including transportation and other infrastructure. Work on the plans has also benefitted from input by public bodies, such as in respect of water and flood risk and environmental issues. Some independent expert advice has been commissioned, notably on investment interest and demand for the AAP and minerals planning issues for the SAD.

## **11. Equality implications**

- 11.1 Preparation of the SAD and AAP has included the carrying out of an integrated Sustainability Appraisal, Equality Impact Assessment and Health Impact Assessment. The objectives of the SAD and AAP include safeguarding land for the provision of jobs, homes and services in locations that are accessible to all residents of the borough including groups such as gypsies and travellers.

## **12. Consultation**

- 12.1 There has been a great deal of consultation across the Council and with partners in the work done to date. Presentations have been made to Members of the Council and discussions / meetings held with Members and groups of Members. Among Council officers, the Planning Policy team has worked especially closely with its wider Regeneration and Development Service colleagues, and with Planning, Engineering and Transport, and Money Home Job. More widely, there has been work with Clean and Green Services, Leisure, Culture and Operations and Public Health
- 12.2 Consultation during the several stages of preparation of the plans has involved letters and emails to interested parties (over 2,000 individuals are on the consultation database), meetings and exhibitions around the borough, and each stage has captured contact details for interested parties and members of the public so that each stage could seek to involve more and more people.
- 12.3 Consultation on the proposed Examination Modifications is a necessary part of the examination process. The consultation will be for six weeks and all parties who have been notified at previous stages of the plans' developments will also be notified of this consultation. Following consultation, any responses will be conveyed to the Inspector (without comments from the Council) and he will take them into account when completing his reports on the SAD and AAP.

### **Background papers**

Existing Documents, including

1. Black Country Core Strategy (BCCS)
2. Black Country Core Strategy Inspectors' Report
3. 'Saved' Policies of Walsall's Unitary Development Plan (UDP)
4. Walsall Council Statement of Community Involvement
5. National Planning Policy Framework & National Planning Practice Guidance

Local Plan Documents and Evidence from the earlier stages of consultation ('Issues and Options', 'Preferred Options' and 'Publication' for the SAD and AAP, and 'Preliminary Draft Charging Schedule' and 'Draft Charging Schedule' for CIL) – as provided on the Council's website.

Local Plan Documents

6. Walsall SAD Submission Document showing Pre-Submission Modifications agreed Post-Publication and Further Proposed Modifications following the Pre-Submission Consultation April 2017
7. Walsall AAP Submission Document showing Pre-Submission Modifications agreed Post-Publication and Further Proposed Modifications following the Pre-Submission Consultation April 2017

Examination documents (Matters, Issues and Question plus Examination Documents that were submitted during the examination) – as provided on the Council’s website.

Examination Documents

- 8. Walsall SAD Examination Matters, Issues and Questions
- 9. Walsall AAP Examination Matters, Issues and Questions

Cabinet and Council documents – as provided of the Council’s Committee Management and Information System website.

- 10. Report to Cabinet 15<sup>th</sup> March 2017 seeking approval for Further Proposed Modifications
- 11. Report to Council 10<sup>th</sup> April 2017 seeking approval to submit the SAD and AAP for examination

Housing White Paper and associated documents.

<https://www.gov.uk/government/publications/fixing-our-broken-housing-market>

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