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**Report of:** *Michael Crofts*

**Report to:** *Co-operative Executive*

**Date of Decision:** *16 February 2022*

**Subject:** *Planning Service Income Activities*

<p>Is this a Key Decision? If Yes, reason Key Decision:-</p> <ul style="list-style-type: none"> <li>- Expenditure and/or savings over £500,000</li> <li>- Affects 2 or more Wards</li> </ul>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
<p>Which Executive Member Portfolio does this relate to?                  City Futures, Development, Culture and Regeneration</p> <p>Which Scrutiny and Policy Development Committee does this relate to?                  Overview and Scrutiny Management Committee</p>	
<p>Has an Equality Impact Assessment (EIA) been undertaken?</p> <p>If YES, what EIA reference number has it been given? 286 &amp; 1059</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
<p>Does the report contain confidential or exempt information?</p> <p>If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-</p> <p><i>“The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended).”</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>

## **Purpose of Report**

Fees and charges related to several activities carried out by the Planning Service and Place Hub have not been reviewed for some time and this results in a service which costs more to deliver than is received in fees.

Previously agreed mechanisms for funding Neighbourhood Planning work have not allowed for a dedicated resource to be put in place. An alternative approach is needed to bring greater continuity to the role.

This report reviews the following matters:

- The charges for pre-application advice in relation to Town Planning matters;
- The need to introduce an administrative fee for the receipt of applications not lodged via the Planning Portal to reflect the additional administrative burden that this results in;
- The charges levied for the Planning Searches function undertaken by the Place Hub; and
- The funding regime for Neighbourhood Planning work.

The proposed changes will better reflect the actual cost of the delivery of these services and are in places fundamental to help deliver the proposals set out in the Planning Service Restructure (MER 476).

It is proposed to update fees and charges to more closely reflect the actual cost of the service provided (balanced against a benchmarking exercise to ensure that the charges are not at odds with the charges levied in other Core Cities) and to build in a mechanism to update the fees on an annual basis in line with inflation.

In relation to Neighbourhood Planning, it is proposed to update the funding arrangements in order to support a full-time post dedicated to the development of Neighbourhood Plans by seeking approval to use Community Infrastructure Levy (CIL) income to provide dedicated neighbourhood planning support to local communities to develop their neighbourhood plans. This represents the implementation of the Cabinet decision 8.2(a) taken on 17 October 2018.

**Recommendations:**

It is recommended that the Cooperative Executive:

- Approve the Head of Planning's recommendation to use the 10% of CIL neighbourhood portion funding that has/will be retained to support the development of neighbourhood plans (in accordance with the Cabinet decision of 17 October 2018) to fund one full-time post in the Planning Service dedicated to supporting local communities in developing their neighbourhood plans.
- Approve that the schedule of pre-application fees set out in Appendix 1 be introduced on 01 April 2022.
- Approve that the Director of City Growth (or future equivalent role) has authority to make future changes to pre-application charges in line with the time recording data analysed on an annual basis.
- Approve the administrative fee for receiving planning and building control applications which are not submitted on the national Planning Portal and the increased expedited Planning Search Fees, as set out in the report, be introduced on 1 April 2022.
- Approve that all of these fees can be increased on an annual basis in line with inflation.

**Background Papers:** *None*

Lead Officer to complete:-	
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.
	Finance: Kerry Darlow
	Legal: Portia Watkins / Patricia Evans
Equalities: Annemarie Johnston	
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	<b>EMT member who approved submission:</b> <i>Michael Crofts</i>
3	<b>Executive Member consulted:</b> <i>Mazher Iqbal</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.
	<b>Lead Officer Name:</b> <i>Michael Johnson</i>
	<b>Job Title:</b> <i>Head of Planning</i>
<b>Date:</b> 31 January 2022	

## 1.0 PROPOSAL

1.1 The Planning Service relies on a number of income streams to supplement the work which it undertakes. The planning application fee income is the only one of these streams where there is a national fee structure. There are other areas of work which can be charged for on a cost-recovery basis, such as the pre-application service; the administration of planning applications not received electronically via the national Planning Portal and some expedited Planning Search functions. In addition, a small portion of the Community Infrastructure Levy which is collected can be retained to support the development of neighbourhood plans. This report deals with these different elements of fee earning work and the proposed changes to them, which in places are an intrinsic component of the Planning Service restructure (MER 476).

### 1.2 Pre-application Charges

1.2.1 This report identifies additional income potential from the discretionary area of charging fees for what is known as pre-application advice associated with the Development Management function, including formal advice on whether or not planning permission is required and related questions.

1.2.2 Charging for pre-application advice is now well established in Sheffield. The time recording data that has been gathered over a number of years provides the evidence that the Planning Service is significantly undercharging for the service it delivers at the present time. Fees have not increased for several years, yet pressure on Local Authority budgets has increased significantly.

1.2.3 This report recommends a strategy for helping to meet budget targets for 2022/23 and to increase income in this area in line with inflation thereafter. Given the potential impact on the Council's corporate objectives of being business friendly and attracting investment, a decision is sought from the Cooperative Executive.

1.2.4 It is proposed to consult local agents and developers on the new fee schedule set out in **Appendix 1**, with the aim of introducing a revised scheme for the new financial year (01 April 2022). A comparison can be made to current fees, which are set out in **Appendix 2**.

1.2.5 Development management is dominated by the planning application processes, where the fees are set nationally by the Government, and it has been well established that the fees fall short of the levels required for full cost recovery. In the last ten years there have only been two national planning application fee increases (15% in December 2012 and a further 20% in 2018). At the same time a vast number of new Prior Notification application types have been introduced gradually from May 2013, the

impact of which has been to increase the burden on LPAs relative to income.

- 1.2.6 It is best practice to front load the application process by trying to resolve as many issues as possible at the pre-application stage, whilst also helping the applicant prepare a valid application with all the information required. This can speed up the application process. Nevertheless, providing pre-application advice is a discretionary area of the service, for which it is possible to charge a fee. Sheffield has done so successfully since June 2011 but has not increased the fees charged since 2015. Officers in the Planning Service have been recording the time spent on different tasks for a number of years through time recording software to enable a better understanding of the costs involved in each element of service provided and it is on this basis that we have the evidence needed to increase the charges for this discretionary area of service.
- 1.2.7 The Local Government Act includes a general power for authorities to charge for discretionary activities, that is, services that an authority has the power, but is not obliged to provide. In the case of planning, this applies to areas of activity outside the scope of the existing nationally prescribed planning application fee structure, such as pre-application discussion and advice. Taking one year with another, the income from charges for such services must not exceed the costs of providing them.
- 1.2.8 As the quality of advice available freely on the Planning Portal has improved and pressure on local authority budgets has increased, most local authorities have started charging for pre-application advice or simply not offered the service at all. A Benchmarking Exercise has been carried out to compare what the other Core Cities charge for pre-application advice, and this is set out in **Appendix 3**. The average fees are included for comparison alongside the proposed new fee structure set out in Appendix 1.
- 1.2.9 When pre-application fees were first introduced and reviewed in Sheffield, the focus was on the areas of significant cost and where businesses were more easily persuaded that charges were both reasonable and would not harm economic recovery. Due to increasing budget pressures, the range of advice for which a charge was made was expanded to all types of enquiries in 2015. It is now proposed to increase the income target from pre-application charges by approximately £70,000 in 2022/23, based on an assessment of the potential for further extending the fees through time recording information, set against the need to ensure that the level of fees is not so great or so out of step with other Core Cities that it puts potential customers off using the service. This means that the fees taken will not be on a full cost recovery basis. We are particularly mindful that we do not want to burden individual house owners and smaller businesses with fees that are so great that they would not engage with us and we also intend to keep a 'no cost' service for any individual who is registered disabled and

needs to adapt their house to improve their living environment, or a business which needs to do similar.

### **1.3 Administering the receipt of planning and building regulations applications**

1.3.1 Planning and Building Control applications can be submitted in a number of ways, with the vast majority using the National Planning Portal Service. This is an online portal, and the Council pays to connect the local system to the National Portal to enable applications to be downloaded on to the Council's back-office system automatically. For the majority of applications the Planning Portal charges an administrative fee to maintain the site and the service.

1.3.2 Within the Planning and Building Control Service, applications can also still be received in a paper, rather than a digital format. These paper documents have to be manually scanned, uploaded, indexed and published to the back-office system to enable the applications to be processed and considered. This is a time-consuming process when compared with the automated journey of an application which is made via the National Portal.

1.3.3 To reflect the additional time and cost involved in processing applications that do not use the National Portal, it is proposed to match the Planning Portal administration fee. This will ensure that a situation is not created whereby the Council is paying to connect to the National Portal, but customers choose to submit in an alternative way simply to avoid the National Portal administration fee. In doing so, this results in a much more labour intensive and time-consuming process on the part of the Council's Planning Administration team.

1.3.4 This proposal will match the current Planning Portal fee (£25 incl. VAT) and to increase this as and when the fee for the Planning Portal increases.

### **1.4 Expedited Planning Search Fees**

1.4.1 The search function is a search of The Planning Register of historic records and forms part of the conveyancing process for house moves, land transactions, mortgage applications, etc. The current service is free of charge for a response within 28 days, as this is a statutory requirement. In the majority of cases the planning search forms part of a wider set of searches and is coordinated by the Council's Legal Land Charges Team, providing information back to 2001.

1.4.2 An expedited search for those solicitors who request this service commands a nominal fee and is processed within 10 working days. This fee has not been increased for many years and does not cover the costs involved in providing the service.

- 1.4.3 A Planning Register search of records which pre-date 2001 is an additional service which is offered and often requires a search of historic microfiche records, scanning these records, redacting them for GDPR compliancy and then making them available to customers. This currently commands a fee of £25 which has not been increased for many years and does not cover the cost of the work involved.
- 1.4.4 In order to more closely reflect the scale of the task and the costs involved it is proposed to charge domestic customers a flat fee of £80; equivalent to 2 hours administrative assistant work to undertake the search on a domestic property. It is also proposed to charge for searches on commercial sites at a flat fee of £100 to undertake an initial search of the records and then to provide a bespoke charge, based on an hourly rate of £50, for completing the detailed search, which reflects the fact that a commercial site can vary greatly in complexity and size and will require a more senior administrative officer to conduct the search.
- 1.4.5 Setting charges in this way will ensure that the more straightforward domestic searches, comprising a single property, do not subsidise the more complex commercial searches, which can cover a large site area with multiple buildings. It will allow for full cost recovery for these expedited and bespoke additional services above the statutory search requirements (the 28 day turnaround outlined above).

## **1.5 Use of CIL for Neighbourhood Planning**

- 1.5.1 The Community Infrastructure Levy (CIL) is a national scheme introduced through the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regulations) as a way of seeking contributions from developers towards essential infrastructure that is required to support new development. The principles of CIL were explained to Cabinet in a report entitled Implementing the Community Infrastructure Levy (CIL) in Sheffield in April 2015.
- 1.5.2 Sheffield City Council began charging a CIL on new planning permissions from 15th July 2015. CIL charges are set out as £ per square metre of new floorspace and vary by type and location of development. By the end of August 2021, the Council had collected a CIL total of nearly £20 million.
- 1.5.3 CIL is mainly intended to fund large, city-wide infrastructure projects, but 15% of all CIL collected is retained locally for local needs. This increases to 25% in areas where a neighbourhood plan is in place. It is referred to as the 'neighbourhood portion' by the Government. It is handed directly to Parish Councils where they exist, but outside of parishes the Council retains those receipts. Government guidance suggests that some of the neighbourhood portion could be used to develop neighbourhood plans. In October 2018, Cabinet agreed to pool the Local CIL into one pot, then allocate it to individual wards, based on their relative Indices of Multiple

Deprivation (IMDs). It also chose to allocate some of the 15% to promote and support the production of neighbourhood plans.

- 1.5.4 Specifically, the Cabinet decision of 17 October 2018 was that *“the Neighbourhood Portion is collected into a single Local CIL pot and redistributed using the process set out in the report”*. Paragraph 1.14 of the report states: *“It is proposed that 10% of the Neighbourhood Portion will be retained to support the development of neighbourhood plans. This would form part of a separate neighbourhood planning budget that would be managed by the Planning Service. Decisions on allocating this funding to the delivery of neighbourhood plans will be made on a case-by-case basis in accordance with the Leader’s Scheme of Delegation and are not considered further in this report.”* Since the Cabinet decision was made, there has been no specific proposal on the spending of these funds despite significant officer time being dedicated to supporting the production of neighbourhood planning; given the increased interest in neighbourhood planning from communities in Sheffield, the time is now right to implement this decision and better support the Council’s statutory neighbourhood planning function.
- 1.5.5 Neighbourhood planning was introduced by the Government in the Localism Act in 2011 to offer rights and powers for local communities. This includes neighbourhood planning where a community can come together and produce a plan to shape how their local area should develop and grow.
- 1.5.6 The proposal is that moving forward these funds, which amount to 1.5% of the total CIL collected per annum, are used to fund a full-time post (1 FTE) in the Planning Service that will exclusively support and enable the delivery of neighbourhood plans. This post will be a Principal Planning Officer at Grade 9. In addition, the reserve pot that now exists be utilised for other measures that would help to support the production of neighbourhood planning moving forward.

## **2.0 HOW DOES THIS DECISION CONTRIBUTE?**

### **2.1 Pre-application Charges**

- 2.2.1 The Planning Service is currently undergoing an agreed restructure under the Managing Employee Reductions Process (MER 476). The agreed restructure proposals include for the rebalancing of future income targets and explicitly includes the need to increase pre-application charging, supported by Timemaster data, to contribute an increase of at least £50,000 per annum to the Planning Budget. This is needed in order to support the ongoing delivery of a properly resourced pre-application service which directly contributes to Sheffield’s One Year Plan ambitions on Climate Change, Economy and Development by working in particular with businesses to help them through the complex planning process.



## **2.2 Administering the receipt of planning applications**

2.3.1 The efficient administration of planning applications improves the customer experience. Submission via the on-line portal saves time and ensures automatic uploading to back-office systems. We are not removing the ability for customers to submit applications in an alternative way, but we are introducing an administrative charge to reflect the fact that this is a more time-consuming way for the Council to upload and publish the information, which is required to ensure that the planning application process remains open and transparent for all those who wish to engage in the process.

## **2.3 Expedited Planning Search Fees**

2.4.1 Maintaining an expedited search process for customers is very helpful for those that need to move quickly or are interested in purchasing a property but need to know the full planning history first. The relatively modest costs proposed are not seen as a barrier, rather they are seen as an enhanced service that conveyancing solicitors in particular very much welcome.

## **2.4 Use of CIL for Neighbourhood Planning**

2.4.1 The production of neighbourhood plans by local communities and the use of local CIL money by communities to support their area are both priorities for the Government following on from the Localism Act and CIL Regulations. But both require considerable support and input from the local planning authority, and we have a Duty to Support neighbourhood planning. In making their decision in October 2018, Cabinet recognised that CIL funding was a useful resource on which communities and the local planning authority could draw to support the delivery of neighbourhood plans in all parts of the city. This approach would help to ensure that opportunities to produce neighbourhood plans would be available to all communities, not just those with their own local resources, so represented a fairer way of delivering a neighbourhood planning service. Currently in the Planning Service, resources are stretched and focused on the production of the local plan, so there is a danger of a lack of support for neighbourhood planning, unless this resource issue is addressed.

2.4.2 All neighbourhood plans are required by the National Planning Policy Framework to promote sustainable development and to deliver economic, social and environmental objectives. These include building a strong economy, providing infrastructure, supporting strong, vibrant and healthy communities, supporting communities' health, social and cultural well-being, mitigating and adapting to climate change and protecting and enhancing our natural, built and historic environment (NPPF paragraphs 8 and 11). The proposal will fully support these aims.

- 2.4.3 The proposal is also consistent with the ambition in the One Year Plan to be a more democratic council, with new ways of making decisions, listening to more views, and connecting with communities.
- 2.4.4 Up to now, support for neighbourhood planning from the Planning Service has been provided by existing staff, mostly funded through the basic staff revenue budget. To date, 2 neighbourhood plans have been produced, in (a) Broomhill, Broomfield, Endcliffe, Summerfield, and Tapton (BBEST); and (b) Dore. Other plans are being proposed for Kelham Island and Neepsend; Ecclesfield; and Stocksbridge. Bradfield Parish Council has also made preliminary enquiries about the process. It is estimated that the neighbourhood planning workload within the Planning Service to support the two plans so far produced has amounted to around 1.5 to 2 full-time equivalent (FTE) staff. This report is seeking agreement for a contribution of 1 FTE towards this workload from CIL funds moving forward.
- 2.4.5 When further plans do come forward (dependent on quantity), the Planning Service could require an increase in short term staffing to support these and the existing reserve could be utilised to help with this, alongside funding other measures to support the production of such plans. It could also be utilised for proactive targeting of communities.

### **3.0 HAS THERE BEEN ANY CONSULTATION?**

- 3.1 In relation to the CIL neighbourhood planning proposal, prior to the October 2018 Cabinet decision, an online consultation took place between 13 August and 17 September 2018 via the Council's Citizen Space portal, seeking views on how the Local CIL 'neighbourhood portion' is allocated in non-parish areas. One of the three major proposals set out in the consultation was to promote the development of neighbourhood plans across the city by retaining 10% of the neighbourhood portion for this purpose. This was supported by 51.6% of respondents. Two examples of comments in support of the proposed approach were: "Not all communities have the resources to produce a neighbourhood plan and should not be disadvantaged because of this" and "We need more help with developing neighbourhood Plans". We do not consider that any further consultation is required to support the recommendation for the CIL to be used to fund a post dedicated to neighbourhood planning.
- 3.2 In relation to the proposals to increase pre-application charging; introduce an administrative fee for the receipt of planning applications; and increase charges for expedited searches there has been no consultation to date. However, we know from feedback received from regular planning agents; the Sheffield Property Association; and solicitors' firms, that they all have a desire to see a well-resourced planning team which can offer a good level of service and they understand that increasing the charges for these discretionary areas of service will improve the customer experience. It is

nevertheless intended to forewarn the Planning Agents Forum and the Sheffield Property Association ahead of the launch.

#### **4.0 RISK ANALYSIS AND IMPLICATIONS OF THE DECISION**

##### **4.1 Equality of Opportunity Implications**

4.1.1 In relation to the use of CIL for Neighbourhood Planning an Equality Impact Assessment (EIA) was undertaken as part of the 2018 report in relation to the pooling of the Local CIL into one pot – ref 286. It estimated a low-level positive impact on people with disabilities, the health of residents and the VCF Sector.

4.1.2 An up-to-date EIA has been undertaken (reference 1059). Overall there are no significant differential, positive or negative, equality impacts identified. There are positive impacts in relation to Neighbourhood Planning already identified in EIA 286 above. With regard to the charges and fees, disabled people wishing to improve their own home to improve their living environment will continue to be exempt from any pre-application charging (and are also exempt from the subsequent planning application fee). No negative impacts are identified.

##### **4.2 Financial and Commercial Implications**

4.2.1 The proposal to use CIL for neighbourhood planning has no specific financial or commercial implications, as it will ensure that funding already collected and allocated by the Council is spent in an efficient and appropriate way. The neighbourhood planning budget is effectively 10% of the 15% Local CIL Neighbourhood Portion, or approximately 1.5% of the total CIL collected. It is slightly less than 1.5% due to the deduction of payments to the parishes. Work has been undertaken to demonstrate that funds would be available to support 1 FTE post in perpetuity. In addition, the reserve, which as of 30 June 2021 stood at around £267K, could be utilised to support additional measures in connection with neighbourhood plans as required in the future.

4.2.2 The proposal to increase charges for discretionary areas of service will be on the basis that none of the charges go above cost recovery. Indeed, the Time Recording data shows that we will not recover our full costs with the fee structure as now proposed, in order that we are not out of step with the other Core Cities.

4.2.3 The fee increases are expected to increase income by £70K (based on average application volumes). £50K will support the agreed restructure proposals and the remainder will contribute towards the existing service income target.

##### **4.3 Legal Implications**

4.3.1 This report is not considered to have any significant legal implications and it in part seeks to implement a decision already made by the Council in relation to the CIL neighbourhood planning element.

- 4.3.2 A Local Planning Authority must provide advice or assistance to a parish council, neighbourhood forum or community organisation that is producing a neighbourhood plan or Order as required by paragraph 3 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).
- 4.3.3 The Community Infrastructure Levy Regulations (2010) (as amended) set out the scope of the use of the neighbourhood portion of CIL in areas where a Parish Council does not exist and therefore does not directly receive the receipts.
- 4.3.4 In the Cabinet decision of October 2018 it was proposed that that 10% of the neighbourhood portion would be retained to support the development of neighbourhood plans.
- 4.3.5 Regulation 59(F)(3) of the CIL Regulations states that:
- The charging authority may use the CIL to which this regulation applies, or cause it to be used, to support the development of the relevant area by funding—*
- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or*
- (b) anything else that is concerned with addressing the demands that development places on an area.*
- 4.3.6 Section 93 of the Local Government Act 2003 gives relevant authorities the power to charge for discretionary services. Discretionary services are those services authorised by statute that a local authority is not required to provide but may do so voluntarily.
- 4.3.7 Section 93(1) states:
- (1) Subject to the following provisions, a relevant authority may charge a person for providing a service to him if—*
- (a) the authority is authorised, but not required, by an enactment to provide the service to him, and*
- (b) he has agreed to its provision.*
- 4.3.8 At Section 93(3) the LGA 2003 reads:
- The power under subsection (1) is subject to a duty to secure that, taking one financial year with another, the income from charges under that subsection does not exceed the costs of provision.*
- 4.3.9 As stated above in paragraph 1.2.9 the proposed fees to be taken for the discretionary service will not be on a full cost recovery basis.
- 4.4 Other Implications
- 4.4.1 The proposals tie in with MER 476 and will help to deliver the revised structure in the Planning Service.

## **5.0 ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 As the CIL funding is already ring-fenced to neighbourhood planning, the only other options are to use it to support neighbourhood planning in an alternative way. However, as the Council is the statutory body responsible for supporting neighbourhood plans and approving them, the best option is for the Council to use the CIL resources to help carry out its statutory function by creating an additional post within the Planning Service.
- 5.2 The only other option in relation to the proposals to increase discretionary fees across the board would be to reduce the level of service currently provided or to stop some discretionary services altogether. This would result in the loss of revenue, a consequent need to reduce staff numbers and a major reduction in the quality of service to members of the public and business customers at a time when demands are already exceeding expectations.

## **6.0 REASONS FOR RECOMMENDATIONS**

- 6.1 The proposal in relation to CIL being used to support Neighbourhood Planning will implement the Cabinet decision of October 2018. It will help to support the production of new neighbourhood plans, a function that is a statutory requirement for the Council. It will support the Council's approach to ensuring people can get involved in making a difference to their local communities. This is in line with the implementation of the new One Year Plan and Local Area Committees (LACs) that will put decision making at the heart of local areas and bring decision making closer to local people. The proposals that were previously consulted upon received broad support during public consultation.
- 6.2 The proposal to increase fees in relation to discretionary areas of service will help support a properly resourced Planning Service which is better equipped to deliver on the Council's objectives of promoting sustainable development; delivering economic, social and environmental improvements; helping to build a strong economy; supporting strong, vibrant and healthy communities; at the same time as trying to mitigate and adapt to climate change whilst also protecting and enhancing Sheffield's natural, built and historic environment.

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