Planning for Gypsies and Travellers

RTPI Good Practice Note 4
Part C: Accommodation and Site Delivery

About these Guidelines

One of the key roles of planning is to, “address accessibility for all members of the community to jobs, health, housing, education, shops, leisure and facilities”.1

Whilst there are examples of good practice, planning has not addressed these issues well for Gypsy and Traveller communities. There are insufficient sites, services and opportunities for people who wish to pursue a nomadic lifestyle. New guidance from the Department for Communities and Local Government (DCLG) seeks a step change in approaches and practice.

This Good Practice Note is presented in a series of five complementary parts. It aims to help practitioners deliver satisfactory services to Gypsy and Traveller communities. There is a strong focus on integrated, effective service delivery through the optimum use of stakeholder resources and partnership working.

This GPN series provides advice under five headings:

• Communication, Consultation and Participation (Part A)
• Accommodation Needs Assessment (Part B)
• Accommodation and Site Delivery (Part C)
• Enforcement (Part D)
• Sources of Further Information and Advice (Part E) only available online

The series is primarily intended for planning practitioners. However, it will provide assistance for other stakeholders involved in planning and service delivery processes.

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1 Planning Policy Statement 1: Delivering Sustainable Development
www.communities.gov.uk/index.asp?id=1143804
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Part A: Communication, Consultation and Participation

Part B: Gypsy and Traveller Accommodation Needs Assessment

Part D: Enforcement

Part E: Sources of Further Information and Advice

All five parts of this Good Practice Note are available to download in full from the RTPI website at www.rtpi.org.uk
Part C of this good practice advice outlines the role and use of Regional Spatial Strategies (RSSs) and Local Development Frameworks (LDFs) in assessing the need for, and distribution of, sites for Gypsy and Traveller accommodation.

It supports the advice given in:

- Part A – Communication, Consultation and Participation;
- Part B – Assessment; and
- Part D - Enforcement.

National planning policy for Gypsy and Traveller site provision is set out in Circular 1/2006 ‘Planning for Gypsy and Traveller Caravan Sites’ (Circular 1/2006). It covers the development of sites by local authorities or registered social landlords, applications for planning permission from Gypsies and Travellers, and applications from others proposing to develop land for use as a permanent or transit caravan site for Gypsies and Travellers. It seeks to address the failure of previous planning policy to tackle the shortfall in provision by encouraging a positive planning approach, through the proactive use of the tools introduced by the Planning and Compulsory Purchase Act 2004, particularly through (RSSs) and (LDFs).

Circular 1/2006 underlines the government commitment to ensuring that members of Gypsy and Traveller communities have the same rights and responsibilities as every other citizen, and aims to secure provision within a 3-5 year period of:

“...sustainable, respectful, and inclusive communities where Gypsies and Travellers have fair access to suitable accommodation, education, health and welfare provision; where there is mutual respect and consideration between all communities for the rights and responsibilities of each community and individual; and where there is respect between individuals and communities towards the environments in which they live and work.”
Circular 01/2006 also emphasises the importance of ensuring integration between the RSS and the regional housing strategy on the issue of Gypsy and Traveller accommodation. The Autumn 2006 transfer of the Regional Housing Board function to Regional Assemblies supports this integration.

2. Definitions and Language

Gypsy and Travellers can be defined as:

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organized group of travelling show people or circus people travelling together as such”.3

If a specific accommodation need is identified for travelling showpeople or New Travellers, provision will need to be addressed within the development plan.4

3. Regional Spatial Strategy

3.1 Regional Spatial Strategy Requirements

Circular 1/2006 states:

“The RSS revision should identify the number of pitches required (but not their location) for each local planning authority in the light of the Gypsy and Traveller Accommodation Assessments (GTAAs) and a strategic view of needs across the region”.

The level of need set out in the RSS must be translated into specific site allocations in each local planning authority area.

3 Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. Note that this definition is different from the definition used for the purpose of the Housing legislation (see Part B of this GPN).

4 Circular 22/91: Travelling Showpeople. www.communities.gov.uk/index.asp?id=1144421

The Royal Town Planning Institute, 2007
RSSs are at varying stages of development. However, the majority of first round reviews were too advanced to fully incorporate the requirements of Circular 1/2006 prior to their submission to the Secretary of State for examination in public. This position was anticipated and transitional arrangements for addressing need in the absence of robust needs assessments at the local level were included. Therefore, the current round of RSSs are required to include a clear statement of the regional context in terms of the supply of, and demand for accommodation, and the arrangements for putting in place district level accommodation requirements. In practice the first round of RSS reviews have for the most part relied on the bi-annual caravan counts data\(^5\) to provide an overview of regional provision.

However, it is clear from Circular 1/2006 that regional authorities should not rely solely on caravan count information. There is a high level of stakeholder dissatisfaction with the data. Therefore regional bodies should continuously monitor the effectiveness of their baseline data as additional information becomes available from local authorities. The importance of quality baseline date is highlighted in Part B of this good practice note.

The national policy objective to urgently address the provision of sites for Gypsies and Travellers may mean that in some circumstances local authorities will need to make provision to meet immediate need through their LDF process, prior to the publication of proposals by the regional planning body. Satisfactory long-term provision across the region should not be compromised if there is continuous communication, consultation and participation as outlined in Part A of this good practice note.

**Working Arrangements**

PPS11: Regional Planning\(^6\) provides guidance on the statutory requirements for the RSS review process, including the responsibilities of key stakeholders.

The active engagement with key delivery agencies, such as housing providers, social services, primary care trusts, housing authorities and the police, is also essential if the RSS is to identify appropriate implementation mechanisms. The
mechanisms for partnership working outlined in Part A of this good practice note will facilitate the regional planning bodies in achieving a satisfactory review of their RSS. It is important for regional authority officers and members to positively interact with all other stakeholders in the region. It is not appropriate for any stakeholder to have overall ‘control’, this is a function for the stakeholder steering group, which will contain members from the regional authority. A steering group may agree the necessity to establish a sub-group to facilitate objectives specific to the regional authority, however any such sub-group should include external stakeholders.

Assessing Regional Needs

Circular 1/2006 stresses the importance of a common evidence base of need prepared by stakeholders to inform the RSS, the regional housing strategy, and the LDF.

A significant number of accommodation needs assessments were commissioned in advance of the publication of, Gypsy and Traveller Accommodation Assessments: Draft Practice Guide in February 2006. Those assessments subsequently remain on a steep learning curve and there is likely to be significant variation between them in terms of the methodology and assumptions employed. The variety of methods used should be reviewed and revised by stakeholders in order to facilitate appropriate provision in the future.

Benchmarking Gypsy and Traveller Accommodation Needs Assessments

Whilst regional planning bodies may benefit from benchmarking accommodation needs assessments to determine the extent to which the outputs are robust and comparable, this should be an ongoing process. This will be assisted by the inclusion of regional officers as part of the accommodation needs assessment steering group. To benchmark assessments when they are complete is effectively ‘double-jobbing’, a misuse of resources and too late to effectively facilitate any desirable changes.

If there are parts of the region where an assessment has not been carried out within the RSS review period it may be necessary for the regional planning
body to estimate need by applying a standard formula by drawing on the relationship between caravan count data and assessed needs seen elsewhere. The benchmarking figures will inevitably be indicative, as there is likely to be differences in the methodology used in each of the accommodation needs assessments in the region. New government guidance for regional planning bodies on how to address potential gaps in accommodation needs assessment is due to be published imminently.

All stakeholders will need to draw out the key lessons learned from the first round of accommodation needs assessments with a view to establishing greater consistency in the methodologies used, so they are able to provide a consistent evidence base for informing future RSSs and LDFs.

3.2 Allocation and Distribution

Although the requirement for a RSS is to provide a local authority based distribution of accommodation, Circular 1/2006 allows for the allocation to sub-regional or county groupings of authorities where they agree to the preparation of joint development plan documents.

Spatial Options

In carrying out a RSS review, the regional planning body must undertake a strategic environmental assessment (SEA), which is incorporated into the sustainability appraisal process.

For the purposes of strategy development a regional planning body may choose to develop regional distribution options at district, county or accommodation needs assessment levels, depending on the evidence provided by the assessments. However, the draft RSS submitted for an examination in public will need to make district provision for local authority areas that are not covered by a joint Gypsy and Traveller site allocations development plan document.

The criteria for option development should be framed in such a way that they are appropriate for the distribution of accommodation across the region, rather
than the basis for site selection. The matters to consider in developing options will have been detailed early on the accommodation assessment process and will be partially justified by the analysis of needs assessment data.

A sustainability appraisal of the options will need to be consulted on alongside the options themselves. Following the analysis of consultation responses stakeholders should develop a preferred accommodation distribution subject to a sustainability appraisal, prior to the submission of the RSS revision to the examination in public.

3.3 Monitoring and Review

Without exception, the existing accommodation needs assessments take a relatively short-term (5 year) view of need, and have focused on meeting immediately identifiable need. The majority of assessments undertaken to date have made little attempt to address household and population growth in Gypsy and Traveller communities. Consequently, the quantitative provision included within regional spatial strategy reviews is unlikely to extend beyond a five-year horizon. This will require regular, and given the length of the RSS review process, almost ongoing review.

An important component of the first RSS review will be the establishment of a baseline data set for accommodation, as outlined in Part B of this good practice note. As local authorities should update this baseline on an ongoing basis, it is sufficient to provide an annual report to form part of the regional planning board’s annual monitoring report. Relevant stakeholders should agree a suitable mechanism to facilitate the provision of this information to the regional planning board.
4. Local Development Frameworks

Government analysis has shown that, although there have been more applications for private sites since the issue of Circular 1/1994 and the cancellation of local authorities’ duty to provide Gypsy and Traveller sites this has not resulted in the necessary increase in provision. The Housing Act 2004 now requires housing authorities to identify the accommodation needs of Gypsies and Travellers in their area, and to address any shortfalls in preparing their local housing strategies. Circular 1/2006 similarly requires planning authorities to draw this work closely into their LDF preparation.

4.1 Role of the Local Development Framework

The challenge for the LDF is to make appropriate and adequate provision of sites to meet the needs of Gypsies and Travellers, to provide access to community facilities such as education and health care, and thereby to reduce the number of unauthorised encampments and developments that have created friction with local communities in many parts of the country.

When preparing and reviewing LDF documents, the planning authority must translate the assessment of the need for pitches for permanent and transit Gypsy and Traveller accommodation, into sites and allocations. Also the development planning document (DPD) must meet the soundness test of conformity with the RSS. This can be achieved either by including sites for Gypsies and Travellers in the local planning authority’s site allocation DPD or by preparation of a separate topic based Gypsy and Traveller accommodation strategy DPD. The latter option may be the only mechanism for a local authority to meet the 3-5 year timetable contained in the guidance. Alternatively, two or more planning authorities may produce a joint DPD to address allocations on a county or sub-regional basis. This approach may introduce greater flexibility in the choice and location of sites.
Circular 01/2006 advises that the LDF core strategy should set out criteria for the location of Gypsy and Traveller sites. If the planning authority has a relevant DPD, which includes appropriate criteria, criteria should not be required in the core strategy. However, without a relevant DPD, and because the core strategy will normally come on stream first, criteria should be included to allow the development of ‘windfall’ sites. Criteria in the core strategy can be used to guide allocation in the appropriate DPD, and the same criteria should be used to identify any additional sites required to meet unexpected demand. An over-reliance on criteria-based policies may unnecessarily constrain site identification, therefore processes to supplement them are suggested below.

**4.2 Policies and Proposals in the Local Development Framework**

The LDF core strategy describes the planning authority’s vision for the future of its area. It should not contain a detailed strategy to meet the needs of the Gypsy and Traveller communities, nor should it identify site locations. It is able to set out the principles of the planning authority’s housing strategy e.g. of meeting the housing needs of all in the local authority’s area through a choice of location, type, size and price of housing, etc, and supplement this with reference to indicative issues such as affordability and the needs of particular groups, such as Gypsies and Travellers. A signpost to the relevant DPD should be included in the core strategy.

The DPD may either be for site specific allocations, including allocations for a range of land uses, not just sites for Gypsies and Travellers or a specialised, topic-based Gypsy and Traveller accommodation strategy. The decision depends on local circumstances, and how the planning authority has decided to structure its LDF. The use of the site specific DPD to identify sites for Gypsy and Traveller accommodation may be seen to be more integrative and potentially less divisive. However, subsequent to identification of sufficient sites to satisfy identified need, the planning authority should seek to integrate provision for Gypsies and Travellers within its general housing strategies and policies.
‘Front-loading’ encourages the involvement of the local community, special interest groups and other stakeholders in the identification of options and alternative sites from the outset, with a view to a consensus being reached before the plan is put on deposit. The sustainability appraisal also requires the evaluation of different options and a demonstration that the adopted option is the most sustainable.

The allocation of Gypsy and Traveller sites is often contentious. Experience has shown that a criteria based approach to the selection of development sites is unlikely to be successful in instances where considerable public opposition to the development might be anticipated. Establishing criteria that are considered fair, reasonable and realistic by all the parties involved is likely to be problematic, even before arguments begin about the application of the criteria to individual sites. It is not appropriate to rely solely on criteria as an alternative to site allocations where there is an identified need for the development.

As the object of the DPD is to identify and allocate sites for a specific number of ‘pitches’ or units of Gypsy and Traveller accommodation, a pragmatic approach is to move direct to identification of a range of potentially suitable sites in consultation with Gypsy and Traveller communities (using contacts made during the accommodation needs assessment process, as identified in Part A of this good practice note). The local authority and Gypsy and Traveller communities are both able to bring forward their suggested sites during this process, and the distribution and location of transit as well as permanent sites can be considered. The practicable options would then go forward for discussion with the local community, interest groups, and other stakeholders before the selection of preferred sites is finalised. The advantages of this approach are its transparency and the certainty it provides both for Gypsies and Travellers and for settled communities.

A theoretical advantage of the criteria-based approach is its flexibility. It provides the facility for bringing forward additional sites should unforeseen demand arise during the plan period. Using the process outlined above, this
eventuality can be anticipated by deliberately over-providing for ‘pitches’ when allocating sites i.e. by adding, for example, 20 percent to the figures handed down from the RSS with the added advantage of providing greater choice in the short term. This is comparable with the approach recommended to ensure the future supply of land for mainstream market housing.

If the public examination finds the plan to be sound, it is essential that the planning authority can demonstrate that the sites it has allocated are suitable and there is a realistic likelihood of them becoming available within the necessary timescale. Local authorities do have the discretion to dispose of land for less than best consideration where this will promote or improve the economic, social or environmental well being of the area. Alternatively, land included in the register of previously-used/under-used land may be suitable, especially where this is in local authority ownership. Finally, where appropriate, the local authority could indicate a willingness to use compulsory purchase powers to make land available.

4.3 Supplementary Planning Documents

Supplementary planning documents (SPDs) can be used to provide additional detail on policies contained in a DPD. It has been suggested that it may be appropriate to present a local authority’s Gypsy and Traveller strategy as SPD, but this is not the case. A Gypsy and Traveller strategy including criteria based policies and or allocations is a primary policy source that may be used, for example, to provide the strategic basis for the allocation of a particular number of pitches or for the commencement of compulsory purchase proceedings where land is not brought forward. It would not be appropriate to find such substantial policy in SPD alone. Material such as design principles or a design brief for the layout of Gypsy and Traveller sites would be suitable for a SPD.8

8 Further information about SPDs is contained in PPS12: Local Development Frameworks www.communities.gov.uk/index.asp?id=1143846

The Royal Town Planning Institute, 2007
5. Development Management

5.1 Planning Applications

In the past, there has been concern that a planning application made by members of Gypsy and Traveller communities is not dealt with in the same way as an application made by a member of the settled community. This concern has arisen because of the:

- Presence of racist representations;
- Need to ensure a process and consideration that does not racially discriminate against the applicant;
- Lack of effective pre-application advice;
- Very high refusal rate, compared with applications made by members of the settled community;
- Lack of a consistent policy framework within which applications can be considered;
- Tendency for proposals to be considered as requiring ‘special circumstances’ justifications; or
- Tendency for proposals to be considered as personal to the applicant.

New approaches will enable many of these concerns to be overcome, but planning officers must remain aware of the underlying causes of concern. It is important that policies, processes and behaviours are continuously re-examined to ensure that underlying discrimination is both absent, and seen to be absent. To underpin this, there will be a strong role for ongoing dialogue between planning officers and Gypsy and Traveller communities as detailed in Part A of this good practice note. Complaints from service users relating to Gypsy and Traveller applications should be monitored by planning authorities and lessons learnt.
5.2 Responding to Racially Motivated Views

Development management planners are often under pressure to consider racially motivated and discriminatory views and representations relating to Gypsy and Traveller communities. The incidence and adverse effects of such representations have not necessarily received the systematic attention of those working to eliminate discrimination. There are still circumstances where politicians, practitioners and members of the public apparently consider openly biased, discriminatory and unfounded remarks about Gypsies or Travellers as individuals or communities to be somehow legitimate or acceptable, in circumstances where similar remarks made about other black or ethnic minority communities would be immediately recognised as discriminatory and unacceptable.

Development management planners should always be aware that:

- Representations motivated by generic and negative perceptions of race, ethnicity or culture are discriminatory and are not material planning considerations;
- If they are considered as part of a planning decision, they can make the decision unsound and subject to judicial review;
- They can make the decision open to be overturned at appeal;
- They can provide a foundation for complaint and action e.g. under Section 19A of the Race Relations Act 1976 which applies directly to planning authorities and functions; and
- Planning authorities have a duty to actively seek to eliminate unlawful discrimination and to promote equality of opportunity and good race relations.

The RTPI Code of Professional Conduct states that an RTPI member:

“shall not discriminate on the grounds of race, sex, sexual orientation, creed, religion, disability or age and shall seek to eliminate such discrimination by others and to promote equality of opportunity.”

If RTPI members do not abide by this requirement it could result in a
professional conduct complaint. In practice the principles underlying this requirement should be applied by all planning officers, delegated decision makers, councillors or public authority committees.

5.3 Pre-Application Advice

When providing pre-application advice to Gypsies and Travellers the planning officer should aim to draw to the applicant’s attention the circumstances in which their application might be supported, together with any conditions that are likely to be applied.

Advice should be closely based on policy and any other relevant material considerations. Where policy is under review (as is most likely where planning authorities are undertaking an accommodation needs assessment and using the results to underpin a site allocation policy) it will be important to ensure that any pre-application advice takes this evolving policy into account.

Whilst the history of a site that has received a high number of refusals or onerous planning conditions should be considered by the planning officer when discussing a new application, it should be remembered that recent or emerging policy changes may mean that the site may not justify the same approach now.

5.4 High Refusal Rate

Evidence given to the RTPI Gypsy and Traveller working party suggests Gypsy and Traveller related planning applications have a high refusal rate. This is in part due to the absence of supporting policy and the selection of application, e.g. in respect of the Green Belt or development in the countryside. However, applications can also be refused at first instance on ‘insubstantial material grounds’ due to discriminatory and largely politically oriented decision making practices. Discrimination occurs where discriminatory views about Gypsy or Traveller communities are included in a decision. Discrimination can also occur where a planning application is refused at committee, with planners requested to demonstrate planning grounds for refusal where no such weighty grounds exist.

When assessing applications from members of Gypsy and Traveller communities, planning officers should ensure that their reports are not racially discriminatory in content or effect. The circumstances of the applicant, site, objections, advice of colleagues and the views of councillors should always be considered. Discriminatory, and therefore immaterial matters should be excluded from the report, the decision making process, recommended conditions or reasons for refusal and hence from the decision itself.

In circumstances where discriminatory views have been presented to councillors as reasons for refusal or for the imposition of a condition, it is good practice for the planning officer’s report to make clear why they have not been considered.

Where a decision maker insists on referring to apparently discriminatory material in making a decision, conditions or providing reasons for refusal, a planning officer should ask for it to be recorded that the decision is contrary to planning advice and should draw attention to duties under the Race Relations Act 1976 which the authority and any individual associated with it must abide by.

5.5 Consistent Policy Framework

The development plan should identify the housing needs of Gypsy and Traveller communities and to allocate land accordingly. In the past, plans have tended to remain silent on Gypsy and Traveller accommodation needs, therefore development management decisions have not taken these needs into account, in turn meaning that applications have been seen as lacking policy support and often as contrary to policy in respect of other subject matters.

As policy changes in response to Circular 1/2006, development management decisions on Gypsy and Traveller proposals will increasingly be within the framework of sound policies and allocations, which should help to reduce the refusal rate of applications for planning permission.

5.6 ‘Special Circumstances’ and Personal Permissions

Planning permission normally relates to the use and development of land and therefore continues with the land. Planning permission is granted subject to a
condition limiting a use or development to a named individual or group only in exceptional circumstances. The use of special circumstances in justifying and giving evidence for Gypsy and Traveller applications, relating for example, to the health, welfare or educational circumstances of the applicant have often been sought. These approaches have been justified on the basis that applications are being submitted that are contrary to policy. However, there are strong concerns amongst representatives of the Gypsy and Traveller communities about the use of personal information to justify special circumstances when considering planning proposals. There have been instances where highly personal information (e.g. in relation to reproductive or mental health) have been made publicly available as part of the development management process. The monitoring and enforcement of conditions based on such information can also lead to what can appear to an applicant to be personal intrusion, loss of autonomy and dignity. Members of the Gypsy and Traveller communities feel unduly exposed by such practices and highlight the same practices are not used in respect of planning proposals made by members of settled communities. Confidential information included in applications should only be made available to the planning committee in a restricted paper, and under no circumstances made available publicly. This is particularly the case where children are involved.

The granting of special circumstances permissions and applying personal conditions should, on the grounds of equality, be avoided as far as possible, and be as rare for the Gypsy and Traveller communities as they are for applications from the settled community. As the policy framework develops, and allocations make land available, it should become normal practice to grant planning permissions that authorise uses and developments consistent with a nomadic way of life, not particular occupancies by particular individuals or families, granted as policy exceptions.

11 Circular 01/2006 (Annex C) gives examples the types of conditions which should not be attached to planning permissions.  
12 Further information is available from the Information Commissioner and Children’s Commissioner. www.childrenscommissioner.org/
In the past, the high refusal rate for Gypsy and Traveller applications has meant an equivalently high number of appeals being considered by the Planning Inspectorate. The establishment of a sound policy framework combined with the elimination of discriminatory practices and reduction in the need for consideration of special circumstances or proposals for personal conditions should significantly reduce the numbers of appeals.

Where appeals are necessary, the same broad practice principles as outlined for development management planning should apply.

This good practice note also gives advice on:

- Communication, Consultation and Participation (Part A);
- Accommodation Needs Assessment (Part B);
- Enforcement (Part D); and
- Sources of Further Information and Advice (Part E).

13 Appeals Concerning Caravan Sites for Gypsies and Travellers provides detailed information. www.planning-inspectorate.gov.uk/pins/advice_for_insp/gyp_caravan_sites_for_gypsies.pdf
### 7. Sources of Further Information

- **Planning for Gypsy and Traveller Caravan Sites Circular (ODPM 01/2006) - Regulatory Impact Assessment**  

- **Circular 22/91: Travelling Showpeople**  

- **Gypsy and Traveller Accommodation Assessments: Draft Practice Guide**  

- **Count of Gypsy and Traveller Caravans**  

- **Planning Policy Statement 11: Regional Spatial Strategies**  

- **Appeals Concerning Caravan Sites for Gypsies and Travellers provides detailed information.**  
  [www.planning-inspectorate.gov.uk/pins/advice_for_insp/gyp_caravan_sites_for_gypsies.pdf](http://www.planning-inspectorate.gov.uk/pins/advice_for_insp/gyp_caravan_sites_for_gypsies.pdf)

- **RTPI Code of Professional Conduct**  

- **Office of the Children’s Commissioner**  
  [www.childrenscommissioner.org/](http://www.childrenscommissioner.org/)
This guidance is written for town planners working within the English planning system, however much of the advice is relevant to all parts of the UK.

In 2007, the Royal Town Planning Institute assembled a Gypsy and Traveller advisory group of expert individuals to research and debate, the lack of suitable accommodation for Gypsy and Traveller communities. The advisory group has steered the publication of this good practice note.

The RTPI established specialist sub-groups of expert volunteers and staff to draft this guidance; volunteers came from the RTPI Associations and Networks, Planning Aid and external organisations. In order to draw in yet more experience, specialist practitioners participated throughout the ongoing consultation process.

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