

Appendix 1 to Item D3

Retrospective application for replacement fencing, Spring Lane, Canterbury – CA/06/1187

A report by Head of Planning Applications Group to Planning Applications Committee on 12 December 2006.

Application by The Governors of Chaucer Technology and Barton Court Grammar Schools and Kent County Council Children Families and Education for the retrospective permission for the replacement of weldmesh fencing with metal palisade fencing at the shared school playing field off Spring Lane, Canterbury – CA/06/1187

Recommendation: Planning permission be granted subject to conditions.

Local Member(s): Mr. M. Northey

Classification: Unrestricted

Members' Site Meeting

1. The Planning Applications Committee considered this application at its meeting on 7th November, at which the application was deferred pending a Members' site meeting. A group of Planning Applications Committee Members visited the application site on the 1 December 2006 to acquaint themselves with the proposals for the retrospective fencing surrounding the shared ownership school playing field. The Committee Secretary's notes of the site meeting will be circulated at the Committee Meeting on 12 December.

Site

2. Chaucer Technology School is located off Spring Lane, Canterbury and Barton Court Grammar School is located at Longport, opposite Canterbury Prison and Canterbury Christ Church University. The two Schools have their own independent playing fields attached to their sites. The field between both Schools is under shared ownership between both Governing bodies of the two Schools. It is this field which is the subject of the retrospective planning permission, which relates to the replacement of the previous weldmesh fencing with the newly installed metal palisade fencing. *A site location plan is attached and shows both Schools and the playing field off Spring Lane.*

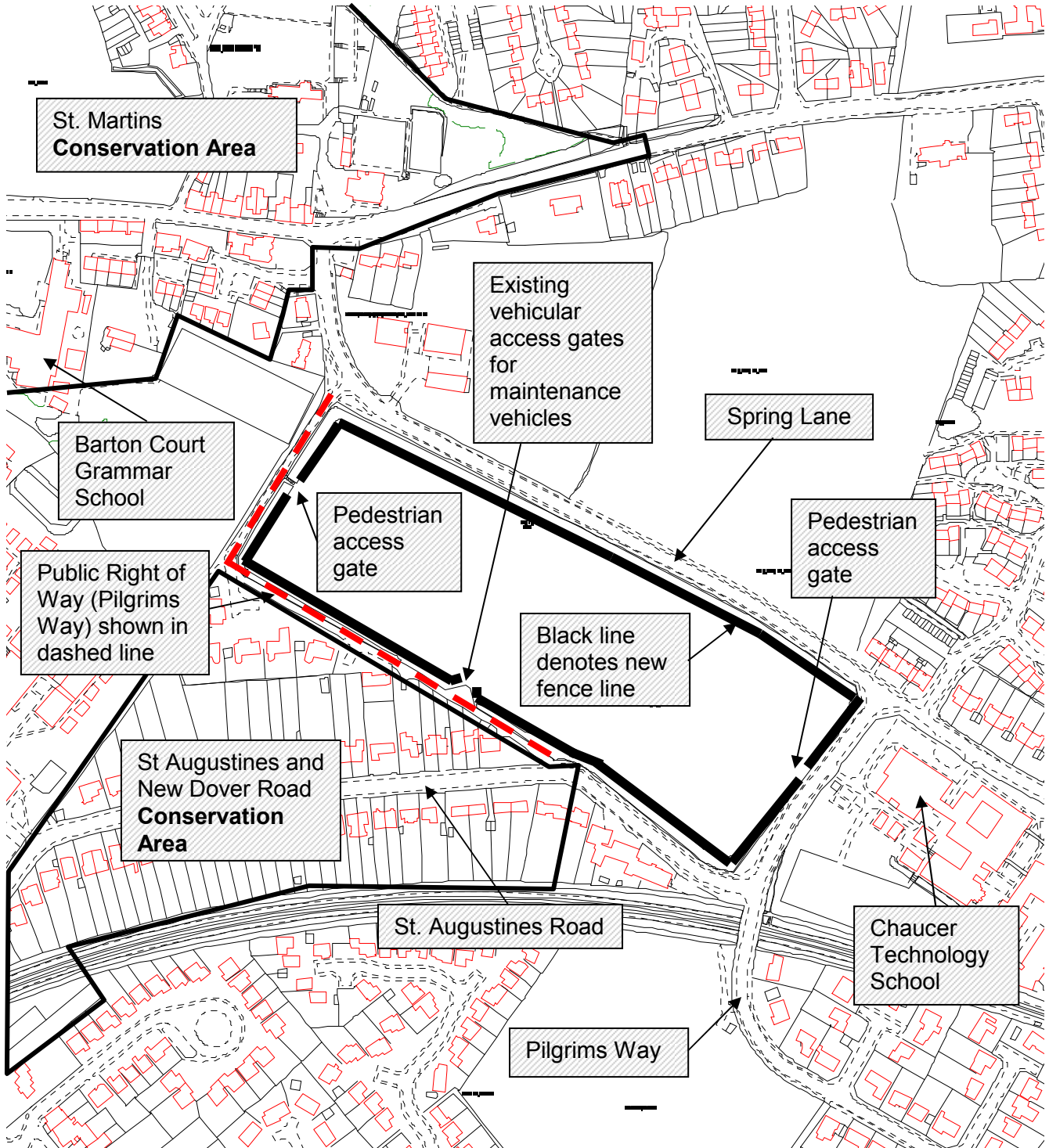
Background and Proposal

3. During the school summer holiday, both Schools engaged on a joint venture to replace the boundary fencing of the playing field off Spring Lane from the previous weldmesh fencing to new metal palisade fencing. Prior to the commencement of these works, Chaucer Technology School has been undergoing a 5-year repair and maintenance programme to their entire site fencing around their current premises. At the time of commencing these works, the School claim that a courtesy call was made to the City Council asking if planning permission was required, and claim that at the time the City Council gave them the go ahead, provided no change of height was being considered. Over the last 5 years, all the fencing around Chaucer Technology School has been replaced with metal palisade fencing without the grant of any planning permission from the County Planning Authority.
4. During the 2006 School summer holiday, the County Planning Authority received complaints from surrounding residents that the existing fencing around the shared school playing field was being removed and replaced with metal palisade fencing.

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Site Location Plan



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Following these complaints, I advised the schools that the fence would require the benefit of planning consent. Although the applicants claim that there is no change in the height from the previous fence to the new one, the change from a visual point of view and the fact that the fence exceeds one metre in height next to a highway, triggers the need for planning consent in this particular case.

5. Both Schools were notified of the requirement for planning consent and were advised to stop works until the outcome of an application had been decided. It was advised that should the works continue, this would be entirely at the Schools' own risk as the outcome of any planning application could not be guaranteed. After discussions with Chaucer Technology School, it was agreed that the fencing works would be discontinued and a full application would be submitted for determination by the County Planning Authority. However, given the time between receiving the complaints and getting the work to stop, the previous weldmesh fence was entirely removed and the posts and rails of the metal palisade fencing have been installed. To date, the posts and rails remain in situ and the field remains open, as the majority of the vertical metal palings have not been installed.
6. The applicants have stated that the need for the replacement fence has come about due to an inadequacy in the previous weldmesh fence in preventing trespassers entering the field. The applicants claim that this poses health and safety issues for both Schools. In the past, attempts have been made to repair sections of the weldmesh fence which had been broken into, but this proved to be unsuccessful in preventing unauthorised access to the field.
7. The applicants have also stated that the field is virtually useless to them in its current open form. Staff and students are more than wary about using it even during the school day. As a result of this, Barton Court Grammar School claim that all their football match fixtures have had to be organised as away games for this term as they cannot guarantee the safety of their students and staff as well as any visiting teams.

Planning History

8. There is no known planning history for the application site.

Planning Policy

9. The Development Plan Policies summarised below are relevant to consideration of the application:

- (i) **The Adopted 2006 Kent & Medway Structure Plan:**

Policy SP1 – The primary purpose of Kent's development and environmental strategy will be to protect and enhance the environment and achieve a sustainable pattern and form of development. This will be done principally by, amongst other matters:

- protecting the Kent countryside and its wildlife for future generations;
- protecting and enhancing features of importance in the natural and built environment;
- encouraging high quality development and innovative design that reflects Kent's identity and local distinctiveness and promoting healthy, safe and secure living and working environments;

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Policy QL1 – All development should be well designed and be of high quality. Developments, individually or taken together, should respond positively to the scale, layout, pattern and character of their local surroundings. Development which would be detrimental to the built environment, amenity, functioning and character of settlements or the countryside will not be permitted.

Policy QL6 - The primary planning policy towards conservation areas is to preserve or enhance their special character or appearance. Development which would harm the character or appearance of a conservation area will not be permitted.

Policy QL11 – Provision will be made for the development and improvement of local services in existing residential areas and in town and district centres, particularly where services are deficient. Flexibility in the use of buildings for mixed community uses, and the concentration of sports facilities at schools, will be encouraged.

Policy EN1 – Kent’s countryside will be protected, conserved and enhanced for its own sake. Development in the countryside should seek to maintain or enhance it.

Policy EN9 - Tree cover and the hedgerow network should be maintained. Additionally, they should be enhanced where this would improve the landscape, biodiversity, or link existing woodland habitats.

Policy CA1 - At Canterbury the location of new development will be governed by the need to conserve the built environment and setting of the historic city.

(ii) **The Adopted Canterbury City Council Local Plan 2006**

Policy BE1 – The City Council will expect proposals of high quality design which respond to the objectives of sustainable development. When considering any application for development the Council will have regard to the following consideration:

- The need for the development;
- The landscape character of the locality and the way the development is integrated into the landscape;
- The conservation and integration of natural features including trees and hedgerows to strengthen local distinctiveness, character and biodiversity;
- The visual impact and impact on local townscape character;
- The form of the development: the efficient use of land, layout, landscape, density and mix, scale, massing, materials, finish and architectural details;

Policy BE7 - Development within, affecting the setting, or views into and out of conservation areas, should preserve or enhance all features that contribute positively to the area’s character or appearance. Particular consideration will be given to the following:

- The impact of the proposal on the townscape, roofscape, skyline and the relative scale and importance of buildings in the area;
- The need to protect trees and landscape;

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- The removal of unsightly and negative features; and
- The need for the development.

Policy C17 – The City Council will work with the Education Authority and school Governors to ensure that the needs of primary and secondary schools are taken into account in the assessment of their development needs and proposals. Planning permission will be granted for proposals that are needed by the schools subject to design and highway safety considerations.

Policy C24 – Proposals which would result in the loss of protected existing open space as shown will only be permitted if:

- There would be no material harm to the contribution the protected open space makes to the visual or recreational amenity of the area where there would be material harm, this would be balanced against demonstrable need for the development.

Policy NE5 – Development should be designed to retain trees and hedgerows that make an important contribution to the amenity of the site and the surrounding area and which are important to wild flora and fauna. The City Council will refuse planning permission for proposals that would threaten the future retention of trees and hedgerows or other landscape features of importance to the site's character, an area's amenity or the movement of wildlife.

Consultations

10. **Canterbury City Council** – raises no objections in principle, subject to the new fence being painted an appropriate dark colour.

Divisional Transport Manager: has raised no objections, given that the height of the fencing has not been increased, and as such any visibility splays on the perimeter of the site will not have been further impeded.

Public Rights of Way Officer: raise no objections

Jacobs (Landscaping): have made the following comments in favour of hedgerow planting around the field.

“The fencing around the playing field would benefit from an adjacent native hedgerow, planted within the Chaucer Technology School land alongside the fence. The hedgerow would provide additional security benefits as well as visually screening the site. Native species would support existing local planting surrounding the site”.

Local Members

11. The local County Member, Mr M. Northey, was notified of the application on the 31 August 2006.

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Publicity

12. The application was publicised by the posting of four site notices around the perimeter of the playing field, an advertisement in the Kent Messenger and the individual notification of 73 neighbouring residential properties. The site notice and advertisement indicate that the application is adjacent to both St. Martin's and New Dover Road & St. Augustine's Road Conservation Areas and is likely to affect their character and/or appearance. It is also indicated that the proposed development may affect the setting of an existing Public Right of Way.

Representations

13. To date, 24 letters of objection have been received along with 1 letter of support in relation to the retrospective fencing. The main points of the letters are summarised below:

Objections

- The design of the fence impacts upon the character of the Conservation Area and more appropriate materials, an alternative design of fence and additional colour treatment should be used;
- The fencing will prevent public use of the playing field, resulting in no alternative similar facility in the area;
- The enclosure of the playing field impacts upon the historic character of the area for walkers using the historic Pilgrims Way;
- Impact on the visual amenity of residents in the surrounding area (namely St. Augustines Road and Spring Lane);
- The erection of the fence has resulted in the loss of several mature trees;
- The fence line along Pilgrims Way has been altered by approximately 0.5m, resulting in restricted access over an existing byway;
- Object to the creation of a new vehicular access to the field off Pilgrims Way.

Support

- 1 letter of support states – "I hope this will stop the weldmesh fence being cut and wire sticking out to cut clothes or poke eyes out. Maybe this will help to bring it back to the pleasant area it once was".

Discussion

14. In considering this proposal, regard must be had to the Development Plan policies outlined in paragraph (9) above. Section 38(6) of the 2004 Planning and Compulsory Purchase Act states that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Therefore, this proposal needs to be considered in the context of the Development Plan Policies, Government Guidance and other material planning considerations arising from consultation and publicity. Issues of particular relevance in this case include the impact upon residential and local amenity and the impact of the development of the two adjacent Conservation Areas and historic Public Right of Way.

Impact on adjacent Conservation Areas

15. As outlined above, the playing field sits between two Conservation Areas. These are the St. Martin's Conservation Area and New Dover Road and St. Augustine's Road Conservation Area, both of which can be seen on the site location plan on page (2).

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16. Development Plan policies state that proposals within or adjacent to Conservation Areas should *'preserve or enhance their special character or appearance'* and *'development which would harm the character or appearance of a Conservation Area will not be permitted'* [Policy QL6 from the Adopted Kent and Medway Structure Plan 2006]. Similarly, the Adopted Canterbury City Council Local Plan states that, under Policy BE7 that, *'development within, affecting the setting, or views into and out of conservation areas, should preserve or enhance all features that contribute positively to the area's character or appearance'*.
17. In my opinion, the design of the fencing currently partially erected does not reflect the special characteristics of both adjoining Conservation Areas. Whilst I acknowledge the need for the fence, I consider that more consideration should be given to the aesthetic appearance of the fence in order to mitigate its visual impact upon the local landscape. It is my opinion that, in order to soften the visual impact of the retrospective development, it should be finished in either black or dark green and softened through the planting of a substantial landscaping scheme in areas where the fence is particularly prominent (see figures 2 & 3 attached)
18. With regard to the painting of the fence in an appropriate dark colour, the applicants have asked that they be allowed to paint only the metal palings of the palisade fencing, given that the posts and rails are already in situ. Whilst I sympathise with the current situation, I do not believe that this would be appropriate as it would result in a mis-match of colours of the fencing, with galvanised posts and green or black palings.
19. It has been highlighted by local residents that there has been some tree / shrub removal undertaken during the clearance works for the new fence. I am of the opinion therefore that in order to mitigate the loss of existing vegetation, and to soften the visual impact of the development, a landscaping scheme should be approved and implemented where the existing boundary treatment to the field is particularly weak. The areas which I have identified that could be strengthened are the end of St. Augustines Road, along the boundary of the field with the existing public right of way (Pilgrims Way) and opposite the Chaucer Technology School buildings on Spring Lane.
20. Policy EN9 of the Adopted Structure Plan states that *'tree cover and the hedgerow network should be maintained. Additionally this should be enhanced where this would improve the landscape [...]*. Similarly, Policy NE5 of the Adopted Local Plan states that *'development should be designed to retain trees and hedgerows that make an important contribution to the amenity of the site and the surrounding area [...]*. Therefore, I am of the opinion that the implementation of additional landscape to replace any vegetation lost, and to strengthen the existing vegetation boundary, would help reduce the visual impact of the fence.
21. Similarly, the advice given by Jacobs (landscaping), (paragraph 10 above) suggests that the fence would benefit from landscaping planting, in particular native hedgerow planting along the boundary of the fence. It is suggested that this would not only have a visual benefit in screening the site, but would also provide additional security to the applicants as well. With the suggested additional planting and an appropriate choice of colour treatment for the fence, I believe the proposal will not have an unacceptable impact upon the adjoining Conservation Areas

Access to and use of playing field

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22. The alleged informal community use of the field referred to in objection letters is not a material consideration in the determination of this application. Given that the field is privately owned, jointly between Barton Court Grammar School and Chaucer Technology School, there is no right of public access onto the field without the prior permission of either, and/or both of the landowners. The applicants have stated that since the schools were built in the late 1960s the field has been fenced and gated and has never been an open space for access for the community. It has been the case that, over the years, the constant damage to the previous weldmesh fence has allowed unauthorised access onto the field through broken sections of fencing.
23. Under the circumstances, Chaucer Technology School has, for the last 5 years, been embarking on a repair and maintenance program to all of their fencing, culminating in this joint venture to maintain the fencing on the shared school playing field. At the time of the commencement of the works, Chaucer Technology School were not aware of the need for planning consent to install new fencing around the shared playing field.
24. Many concerns have been raised about the erection of this fence preventing public access onto the school field due to the loss of a much needed and extremely valuable recreational space. In my opinion however, this is not a material consideration to the determination of this application, given that the field is privately owned and there is no rights of access onto or over the land.

Residential and local amenity

25. As discussed in paragraphs (22-24) above, I am of the opinion that the fencing off the school playing field would not be detrimental to local residents, given that there is no public right of access to the field for community usage. However, I do acknowledge the objections lodged regarding the design of the fencing chosen. I consider that the installation of the metal palisade fence, as it currently stands, is unsightly in an attractive residential area with views stretching from St. Augustines Road to the Cathedral. In my opinion, the addition of such a utilitarian fence gives rise to a detrimental impact on the St. Augustine's / New Dover Road Conservation Area. In order to make the fence acceptable in visual terms, I would recommend that, should Members be minded to grant planning permission, a condition should be attached which requires the applicant to paint the fence in an appropriate dark colour, as well as the implementation and future maintenance of a substantial landscaping scheme.

Fence line along Pilgrims Way

26. It has been alleged by a local resident that the new palisade fence has not, as claimed by the applicants, been installed on the previous fence line. The resident claims that the fence has moved outwards by approximately 0.5m which has resulted in the existing vehicular access along the existing byway (Pilgrims Way) becoming difficult. The resident has claimed that the rear access to their property is difficult at present in the fence's un-finished state, and that once the fence is fully erected the vehicular access to the rear of their property would be unachievable. The resident has therefore suggested that the fence line be "re-aligned to create a 1.5 – 2m (minimum) 'strip' between the fence line and adjoining footpath and roadway".
27. However, the applicants claim that the fencing contractor has erected the parts of the fence which are in situ today, on the same line as the previous weldmesh fence. I have no reason to question this and note that the fence which has been erected is on the boundary of the land owned jointly by both schools. It should also be noted that the

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fence alignment along Pilgrims Way would be difficult to set back due to existing trees directly behind the inside line of the palisade fence.

Vehicular access to the field via Pilgrims Way

28. Some concern has been raised that the applicant is creating a new vehicular access way onto the field from an existing byway, the Pilgrims Way. It has been stated that the creation of this new access way is to the detriment of the conservation areas and causes noise and other nuisance problems for the occupants of the adjacent properties. It has also been alleged that in carrying out the creation of this new vehicular access way that this has facilitated the removal of several mature trees.
29. In response to the above point, the applicant has stated that there has been no new vehicular access way created into the shared school playing field. It is stated that it has always been the case that the vehicular entrance-way has been used for the access of the field by maintenance vehicles such as gang mowers to cut the grass. It is therefore my opinion that given that no new access way is actually being created this issue should bear no weighting on the determination of this application.

Conclusion

30. In conclusion, it is unfortunate that the application which is to be determined is retrospective and was largely erected before the applicants realised the need to seek planning approval. I understand the urgent need for both Schools to secure their private property in order to bring the field back into use as a sports facility for both schools. However, in balancing up the fact that this application is retrospective and the urgency of the Schools to erect their fence, I have to consider its visual impact on the wider environment. I consider that the fence should be finished in an appropriate dark colour with the planting and future maintenance of a substantial landscaping scheme in order to soften the development into the wider environment. Whilst I acknowledge the widespread concern from the local community relating to the field being fenced off by the applicants, this is out of the control of the Planning Authority, and in this case is not material to the determination of this application. Accordingly, I recommend that planning permission be granted, subject to the conditions outlined in paragraph (31) below.

Recommendation

31. I RECOMMEND that PLANNING PERMISSION BE GRANTED, SUBJECT TO conditions, including conditions to cover the following aspects:
- details of the colour treatment for the entire fence be submitted to and approved by the County Planning Authority prior to the recommencement of erection of the remainder of the fence, and thereafter implemented as approved within four months of the date of any permission;
 - a detailed landscaping scheme to include tree, shrub and vegetation planting to be submitted to and approved by the County Planning Authority, and thereafter implemented as approved within the next available planting season; and
 - the rest of the development being carried out in accordance with the approved plans.
- I FURTHER RECOMMEND that the applicants be advised by informative that:
- both schools are requested to enter into discussions with the local community to ensure that formalised community use of the application site can be provided; and

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- both schools ensure that the fence alignment along Pilgrims Way does not encroach beyond its previous alignment.

Case officer – Julian Moat	01622 696978
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Background documents - See section heading
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