

**Planning Committee:** 27 February 2018

**Item Number: 13**

**Application No:** [W 17 / 2343](#)

**Town/Parish Council:** Kenilworth  
**Case Officer:** Dan Charles

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**Registration Date:** 13/12/17

**Expiry Date:** 07/02/18

**131 Warwick Road, Kenilworth, CV8 1HY**

Erection of 8no. apartments after demolition of existing building FOR Parkroy Limited

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This application is being presented to Committee due to the number of objections and an objection from the Town Council having been received.

**RECOMMENDATION**

Planning Committee is recommended to grant planning permission subject to the conditions listed at the end of this report.

**DETAILS OF THE DEVELOPMENT**

The proposal seeks the demolition of the existing building and erection of a new part three and part four storey building containing 8 apartments together with all ancillary works and parking provision.

The proposal is for 8 x two bedroom flats split with 2 at ground floor, 3 at first floor, 2 a second floor and 1 unit at third floor level.

Parking is to be provided to the rear of the building with spaces provided in an area of undercroft below flat 5 and a tandem parking area externally to the rear.

A landscaped courtyard amenity area is set between the building and the adjacent Earl Clarendon Public House.

The building will be set back from the side boundary with the access road (which the current building immediately abuts) to allow for the provision of a 900mm wide footpath linking the rear of the building to the public highway to the frontage.

Refuse and cycle storage is proposed at the rear of the undercroft parking area below Flat 5.

**THE SITE AND ITS LOCATION**

131 Warwick Road is a dis-used former builders' merchant building. The land to the rear was originally the builders' yard associated with the use but this has since been granted permission for new dwellings. The building has been vacant since 2013.

The existing building is 3 storey in height and constructed of brickwork under a flat roof with a mixture of windows types and designs. The building fronts directly onto the pavement and at the side, abuts the existing access drive serving the rear of the site.

A yard area has been retained at the rear and is currently used for parking of vehicles associated with the construction works at the rear.

### **PLANNING HISTORY**

W/17/2295 – Prior notification application under Class O of the GPDO for a proposed change of use of the existing B1 offices to 4 residential apartments at first and second floor only – Withdrawn 25.01.2018.

W/17/1697 – Prior Approval Notification for Proposed change of use from existing Office Use (Class B1a) to 4 residential apartments on first and second floor only – Refused 30.10.2017

W/15/0642 - Prior Notification of Proposed change of use from offices (B1a) to 5no. 2-bed apartments (C3 -residential) – Withdrawn 12.06.2015.

#### Land to rear

W/17/1094 – Variation of condition 1 of planning permission W/15/0620 to allow changes to the design of the houses and apartments, the bin store location, garages and the parking layout - Granted 13.09.2017

W/16/1788 - Variation of condition 1 on planning permission W/15/0620 to allow changes to the design of the houses and apartments, the access road to the private drive, the bin store location and the parking layout – Refused 26.05.2017 and Appeal Dismissed.

W/15/0620 - Submission of all reserved matters pursuant to the original outline (W/11/1618) for 9no. apartments, 3no. dwellings and 3no. garages - Approved 16.09.2015

W/11/1618 - Outline application for the erection of 9no. apartments, 3no. dwellings and 3no. garages - Approved 04.07.2012

### **RELEVANT POLICIES**

- National Planning Policy Framework
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- EC3 - Protecting Employment Land and Buildings (Warwick District Local Plan 2011-2029)
- TCP1 - Protecting and Enhancing the Town Centres (Warwick District Local Plan 2011-2029)
- H0 - Housing (Warwick District Local Plan 2011-2029)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)

- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- TR2 - Traffic generation (Warwick Local Plan - 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- HS2 - Protecting Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)
- NE3 - Biodiversity (Warwick District Local Plan 2011-2029)
- NE4 - Landscape (Warwick District Local Plan 2011-2029)
- NE5 - Protection of Natural Resources (Warwick District Local Plan 2011-2029)

#### Guidance Documents

- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Open Space (Supplementary Planning Document - June 2009)
- LES - Low Emission Strategy Guidance for Developers (April 2014)
- Vehicle Parking Standards (Supplementary Planning Document)

### **SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council** - Object for the following reasons:

- The proposal is inconsistent with the streetscene and represents a missed opportunity to improve the look of Warwick Road.
- Additional traffic to that arising from the houses already under construction but uses the same substandard entry.
- The width of the vehicular access is inadequate for two way traffic, as illustrated in the submitted drawings and will lead to safety problems
- The footway provided does not go the full length of the narrow section and is only 0.9m wide.
- Unloading at the front entrance will cause total obstruction of the access in both directions.
- The front entrance door appears to be opening inwards. If Building Regulations require them to be opening outwards for emergency exit then they will open directly on to the narrow footway and create a further hazard.
- The development will have an adverse effect on the amenities of existing properties in Clarendon Mews, which will be overlooked from above.
- Members commented that an air quality report should be required as this is a known poor area.

**Environmental Protection** - Comments awaited and will be reported to Members in the Update Report prior to the Committee Meeting.

**WCC Highways** - Object for the following reasons:

"The principle of the proposed development is considered to be acceptable, as it is likely that the proposed 8 apartments will generate less vehicle trips compared to the existing builders merchants and office uses at the site. Despite this, the Highway Authority has the following concerns with the proposed site layout; According to drawing no. T227.002 and drawing no. T227.006, an undercroft

parking area shall be provided for parking spaces 1 to 5. This will result in parking spaces 1 and 5 being bound on one side by a wall. The Highway Authority requires parking spaces bound on one side to be at least 3m wide however, the parking spaces only measure 2.4m in width. Tandem parking has also been proposed. The Highway Authority requires clarification as to whether this parking will be allocated or unallocated. Tandem parking is not considered to be acceptable, if both of the spaces are not allocated to the same residential unit".

**WDC Green Space Team** - Recommend contribution towards improvements to Abbey Fields Footpath improvements.

**WDC Contract Services (Waste)** - Communal bins should be located within 10 metres of collection point. Concern over ability for refuse vehicle to manoeuvre into access drive to service bins due to access width and traffic levels on Warwick Road.

**WCC Ecology** - No objection, subject to conditions and notes on any permission granted to secure precautionary works and biodiversity gains.

**Public Response** - 9 letters of objection received on the following grounds:

- Loss of privacy and overlooking into adjacent properties from windows and balcony areas.
- Loss of light to adjacent properties.
- Design not in keeping with surrounding buildings and does not complement the character of the adjacent Georgian Public House.
- Would be the only 4 storey building in the locality.
- Access road is not suitable and doesn't allow two vehicles to pass.
- Pedestrian access is inadequate due to proposed footpath being insufficiently sized.
- Increased traffic will cause further harm.
- Potential noise impacts from adjacent Public House.
- Inadequate refuse facilities and site cannot be accessed by refuse vehicles.
- Scheme has not taken into account the Equality Act.

## **ASSESSMENT**

### Principle of Development

The application site is located within the urban area of Kenilworth which is considered to be a sustainable settlement for the purposes of supporting sustainable residential development. The site is an existing builders' merchant property that has been vacant for a number of years and is deemed to be a brownfield site so the redevelopment for residential purposes is considered to be acceptable in accordance with Policy H1.

In terms of the loss of the commercial site, Officers consider that the site has been vacant for a significant period of time and are satisfied that it has been marketed appropriately with no success. The use of the site as a builders' merchants is limited due to the loss of the yard area to an adjacent residential development.

As the site lies outside of the town centre of Kenilworth, Policy EC3 states that the loss of employment can be acceptable where it has been demonstrated that an alternative use of the land or buildings would not be viable. Officers are satisfied that the site has been adequately marketed for an alternative use and the location of the building does not make it a desirable premises for commercial uses.

On the basis of the above, Officers are satisfied that the development is acceptable in principle subject to an assessment of site specific matters.

#### Impact on visual amenity and the character of surrounding area

Policy BE1 of the Warwick District Local Plan states that new development should positively contribute to the character and quality of its environment. The policy requires the provision of high quality layout and design in all developments that relates well to the character of the area.

The existing building offers little to the visual character of the area, being viewed as a single, dominant block with little architectural or visual merit within the varied street scene. In this respect, Officers are satisfied that the removal of the building is justified and no objection is raised to this element.

The new building is proposed to be a contemporary structure that has its own defined character within the varied street scene. The design is akin to that used on the Almanack building within Kenilworth town centre. In simple terms, the building remains the shape and scale of the existing structure but with an improved external treatment through the use of varied materials and improved fenestration.

The proposed building is 4 storey, although the top floor is only a small section of the floor space of the floors below and contains a single 'penthouse' style apartment at third floor level.

The materials palette has been amended in line with the advice of the Conservation Officer and consists of blue brick to the frontage at ground floor with render to the upper floors. A feature corner of pale, stone cladding is proposed to create an interesting feature that breaks up the visual mass of the building. The remaining treatment is a glazed screen to the third floor 'penthouse' set on a parapet wall. The third floor structure is set back from the perimeter of the main structure and is constructed of predominantly glazing to create a lightweight structure under a flat roof that complements the solid character of the existing host building.

The existing building shares a common boundary for the full length of the boundary alongside the existing Earl Clarendon Public House. The proposed building will retain the general footprint of the existing building with the rear wing adjacent to the access road that retains the separation between the two buildings at the rear. This area will be used for the creation of a landscaped courtyard garden for the future occupiers.

The overall frontage of the building will also be slightly narrower than the existing building on the site which will allow for the creation of a footpath to the

side of the building. This will also create a marginally bigger visual gap between property and the existing building at 135 Warwick Road.

Overall, whilst the design is modern, the mixed character and scale of other buildings within the street scene, Officers, are satisfied that the design and appearance is acceptable.

#### Impact on adjacent properties

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

The site is flanked by the Earl Clarendon Public House to the north. The site shares the boundary for the entire length of the building and extends beyond the Public House and flanks the existing outdoor area.

The proposed development will retain the existing separation between the building. In this respect, the overall impact on the Public House and its external space will be retained as per the existing situation and no additional bulk or massing will be introduced to the immediate boundary line. The open area will be used as an external courtyard garden area.

A number of side facing windows currently exist on the building across all three storeys. The proposed development proposes windows to all three levels which would face the boundary with the Public House. These windows are set 7.2 metres from the boundary and set away from the Public House building by 10.2 metres. Officers are satisfied that the separation distances are sufficient in terms of the impact on the Public House.

To the north east lie a row of modern properties known as Clarendon Mews. The proposed development would offer some angled views of the rear of these properties. It is noted that the upper floors of the existing buildings already afford views over these properties but the current use is for offices rather than residential. The window to window distance at the nearest point is approximately 15 metres which is no less than existing. Whilst the development would afford some level of overlooking, Officers consider that due to the site layout and orientation, the relationship with these properties would be acceptable.

To the east is the parking area associated with the proposed development. The flat above the undercroft has its primary windows facing over the parking area which gives natural surveillance of the area. Oblique views would be possible of the properties at Clarendon Mews. Having regard to the oblique angle of these views, Officers are satisfied that the potential harm would be limited.

To the south of the site lie the rear gardens of properties fronting onto Warwick Road. The building has been designed with the corridors on this side of the building where adjacent to the private amenity space to prevent overlooking. The flats at the very rear of the building have windows facing to the south where they overlook a servicing area to the rear of the properties. Whilst some views of the garden areas are possible, Officers are satisfied that it would not result in

direct overlooking of private amenity space and would therefore have an acceptable relationship.

To the west of the site is the property frontage. The level of fenestration is increased but the relationship remains as front to front and is separated by the wide road and associated footpaths from the properties opposite the site. Officers consider that this relation is acceptable.

### Highway Safety

Policy TR1 of the Warwick District Local Plan requires all developments provide safe, suitable and attractive access routes for all users that are not detrimental to highway safety. Policy TR3 requires all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.

The proposed development has been assessed by the County Highways Officer. The proposed use is considered to result in a net reduction in vehicle movements compared to the existing use of the site. In highway safety terms, the proposed use is considered to be an improvement over the existing use of the building.

The proposal provides a total of 14 spaces to serve the 8 apartments giving an average parking provision of 1.75 spaces per unit. The adopted parking standards require 1.5 spaces per unit which would give a requirement for 12 spaces. In this respect, Officers are satisfied that the level of parking is appropriate for this development.

The parking area is partially located underneath Unit 5 as an undercroft providing 5 spaces together with an area to the rear providing the additional 9 spaces of which 8 are proposed to be tandem spaces. In the proposal as originally submitted, the undercroft had solid side walls that would have required the spaces at each side to be 3 metres in width. In response to the Highway Authority's comments this has now been amended to omit the side walls of the undercroft which allows car doors to be opened without conflict with the side walls. In addition, the County Highways Officer also raised concern about the rear parking area which did not allocate spaces to the units which made the parking layout potentially unworkable. In response to this, the applicants have submitted a revised plan showing how the parking spaces are to be allocated which demonstrates that the parking spaces in tandem will be allocated to a single unit which is an acceptable layout.

A secure area for cycle storage is also proposed to the rear of the building for use by the occupiers of the proposed apartments.

### Impact on Ecology/Protected Species

Policy NE3 of the Warwick District Local Plan states that development proposals will be expected to protect, enhance and/or restore habitat biodiversity and where this is not possible, mitigation or compensatory measures should be identified accordingly.

The County Ecologist has considered the proposal and noted that there are protected species records within close proximity of the application site. On this

basis, the Ecologist has recommended conditions be imposed on any permission granted to ensure that no protected species are harmed during the demolition works and thereafter, features installed to improve the biodiversity on the site. A note is also proposed

#### Impact on future residents from noise/living conditions

The proposed development provides all habitable room windows with sufficient outlook to ensure that the development would be acceptable for future occupants.

The site lies adjacent to the Earl Clarendon Public House. In assessing a previous scheme for the conversion of the existing building, the Environmental Health Officer recommended a noise report be submitted. This was assessed and additional information was required to carry out additional monitoring during the summer period where the use of the public house is likely to be higher. Due to time limitations, the application was withdrawn.

In the consideration of this application, Officers consider that additional noise monitoring and any associated mitigation works required can be amalgamated into the overall fabric of the building. The potential to carry out any mitigation works to the existing fabric was limited. Therefore, Officers are satisfied that the construction of the new building can incorporate significant noise insulation improvements (as required) in the fabric of the new building.

#### Open Space

No public open space is provided as part of the proposal. In these circumstances Policy HS4 seeks contributions from developments to provide, improve and maintain appropriate open space, sport or recreational facilities to meet local needs. The proposed development has been assessed by the Open Space team who have requested a contribution of £13,472 to be put toward the development objectives of improvements to Abbey Fields Open Space, relating specifically to the improvement of existing footpaths within the park area. The proposal is considered to accord with HS4 and is acceptable in this regard. This can be secured by condition.

#### Waste

The Contract Services Officer has raised concern about the proposed location of the bin store being set back from the edge of the public highway and the limited width of the access road. Officers note that the site plan submitted indicates a road of 4 metres in width. This land is outside of the site edged in red and is associated with the development to the rear.

In assessing this proposal, Officers are mindful that the ongoing development to the rear for new residential development proposes an increase in the width of the access road to 5 metres which is intended to be an adopted highway. This permission has a condition requiring the new access to be provided prior to the first occupation of the new residential properties. This would allow for a refuse vehicle to access the site as part of the highway network and service the site.



Officers consider that in all likelihood the proposal is likely to come forward after the completion of the adjacent site. However, for the avoidance of doubt, it is appropriate to add a condition to ensure that an appropriate method for the collection and treatment of waste can be provided should the adjacent development not come forward prior to the occupation of the application building. A Management Plan for the site is therefore proposed to be secured by condition.

#### Air quality

The proposal will result in fewer vehicular movements compared to the lawful use of the site as a builder's merchants. It is therefore considered that it would not be appropriate to require the provision of a low emissions strategy in accordance with Policy NE5 and the adopted guidance document.

#### **Conclusion**

The principle of the residential use of this site is considered acceptable and no objection is raised to the loss of the existing commercial use. The proposal is also considered acceptable in terms of visual amenity, neighbouring amenity and highway safety terms. The development would provide acceptable living conditions for occupiers and all technical matters can be adequately secured by appropriate conditions. On this basis, it is recommended that planning permission be granted.

#### **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) T227-002A, T227-03A, T227-04A, T227-05A and T227-06, and specification contained therein, submitted on 12 February 2017. **REASON :** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
- 3 Other than the demolition of the building, no development shall take place above ground level of the development hereby permitted until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. **REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
- 5 The development (including any works of demolition) shall proceed only in strict accordance with a construction method statement which has

been submitted to and approved in writing by the local planning authority. The approved statement shall be strictly adhered to throughout the construction period and shall provide for: the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; measures to control the emission of dust and dirt during construction; and a scheme for recycling / disposing of waste resulting from demolition and construction works. **REASON:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1, TR4 and NE5 of the Warwick District Local Plan 2011-2029.

- 6 Other than the demolition of the building, no development shall take place above ground level of the development hereby permitted until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 (including details of materials) have been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in strict accordance with such approved details. **REASON:** To ensure that the character and appearance of the building is acceptable in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
- 7 Other than site clearance and preparation works no works shall commence on the construction of the development hereby permitted unless and until a noise assessment has been submitted to and approved in writing by the LPA. The assessment shall be carried out at an appropriate time to the satisfaction of the Local Planning Authority. The noise assessment shall include results for LAeq, LA10, and LA90 noise descriptors, together with a calculated arithmetical average for the LAeq. The assessment will demonstrate by calculation that internal noise levels for the proposed residential properties meet the 'Good' criteria set out in British Standard 8233 'Sound Insulation and Noise Reduction for Buildings' together with any mitigation measures that are required to achieve this. The development shall be constructed in strict accordance with any necessary mitigation measures identified in the approved report. Thereafter the measures implemented shall not be removed or altered in any way. **REASON:** To ensure that the premises are not subject to unacceptable nuisance or disturbance in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 8 Unless the Local Planning Authority certifies that suitable alternative provision has been made for the provision or improvement of open space within the catchment area of the application site in accordance with Policy HS4 of the Warwick District Local Plan 2011-2029:

(i) no development shall commence unless or until a scheme for such provision or improvement (identifying the size/extent, location and specification of the space and works) has been submitted to and approved in writing by the Local Planning Authority; and

(ii) the dwellings hereby permitted shall not be occupied until the scheme so approved has been implemented in strict accordance with the approved details.

**REASON:** To ensure the necessary infrastructure and facilities are provided in accordance with Policy HS4 of the Warwick District Plan 2011-2029.

- 9 Other than site clearance and preparation works no works shall commence on the construction of the development hereby permitted unless and until a Management Plan for the disposal and treatment of waste associated with the residential use has been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

**REASON:** To ensure that the proposed development has a satisfactory method for the disposal of waste in the interests of the visual amenities of the locality in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

- 10 The development hereby permitted shall be carried out in strict accordance with details of surface and foul water drainage works that shall have been submitted to and approved in writing by the local planning authority. **REASON:** To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with Policy FW2 of the Warwick District Local Plan 2011-2029.

- 11 No part of the development hereby permitted shall be commenced unless and until a scheme for the provision of bat and bird boxes to be erected within the site, has been submitted to and approved in writing by the District Planning Authority. The scheme shall include details of box type, location and timing of works. Thereafter, the boxes shall be installed and maintained in perpetuity. **REASON:** In accordance with NPPF, ODPM Circular 2005/06.

- 12 The development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works in the approved application documents. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates; footpaths; and hard surfacing, which shall be made of porous materials or provision shall be made for direct run-off of water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the

development hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of the same size and species as that originally planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 - Transplanting Root-balled Trees and BS4428 - Code of Practice for General Landscape Operations. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.

- 13 The development hereby permitted shall be undertaken in the presence of a qualified bat worker appointed by the applicant to check all suitable features in the roof of the building and associated structures to be demolished immediately prior to works commencing. All roofing material is to be subsequently removed carefully by hand. Appropriate precautions must be taken in case bats are found, such as the erection of at least one bat box on a suitable tree or building. Should evidence of bats be found during this operation, then work must cease immediately while Natural England and WCC Ecological Services are consulted for further advice. Any subsequent recommendations or remedial works will be implemented within the timescales agreed between the bat worker and the Local Authority Ecologist/Natural England. Notwithstanding any requirement for remedial work or otherwise, the qualified bat worker's report shall be submitted to the local planning authority within 1 month following completion of the supervised works to summarise the findings. **REASON:** To ensure that protected species are not harmed by the development. In order to discharge the condition above a brief report from the bat worker must be submitted to and approved by the local Planning Authority.

- 14 No dwelling hereby permitted shall be occupied unless and until the communal car parking spaces to be provided have been completed and marked out in strict accordance with the approved drawing(s) number T227-002A and made available for use by the occupants and / or visitors to the dwelling(s) and thereafter those spaces shall be retained for parking purposes at all times. **REASON:** To ensure adequate parking provision within the development in the interests of the amenities of the locality and highway safety in accordance with Policies BE1, BE3 and TR4 of the Warwick District Local Plan 2011-2029.
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