

Rural Housing Solutions

STRUTT
& PARKER

Rural Affordable Housing on Rural Exception Sites

A HANDS-ON GUIDE FOR LANDOWNERS



JULY 2017
VERSION 1



BRAMBLESIDE | ST TEATH
Cornwall Rural Housing Association | Cornwall CLT

Introduction



KINLET

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Peak District Rural Housing Association



SHIPSTON | WARWICKSHIRE

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Introduction

How often have you heard about, or even experienced, the problems of a lack of affordable housing in rural areas? Maybe a member of your family or an employee has had difficulties finding somewhere to live. Perhaps a local shop or school has closed because the people who would support it have had to move away. Perhaps you have seen businesses move away because the owner or workers cannot afford to live in the village. Your position as a landowner means that you can help turn round this decline. Providing a site for affordable housing or even building some homes yourself can make all the difference.

Why should you choose to become involved?

- For community reasons, as it allows people on low incomes to live in the community where they have been brought up, have family and friends and in which many of them will work.
- For personal and business reasons, to provide a home for a family member or employee.
- For financial reasons, to generate a lump sum or rent for you that you can use as income or invest in your business, whether through sale of land or from a type of asset that a number of landowners are used to managing and maintaining.

This Guide takes you through the core components of delivering an affordable housing scheme on a rural exception site. These are small sites in or next to the village that have no potential as sites for 100% open market housing, but time and again have proved to be just the place to provide affordable homes for local people.

How to use this Guide

The Guide is structured to mirror the stages of developing a rural affordable housing scheme on a rural exception site.

For each stage we have answered Frequently Asked Questions to provide you with information on the key activities, what steps you need to take or consider and useful sources of further advice and support. Embedded within each stage there are electronic links that will take you to more detailed information.

We have also provided a Glossary which you can see by [clicking here](#).

Whether you want a quick overview or detailed advice, this Guide is for you.

Drawing on a wealth of experience of delivering high quality, affordable and successful affordable homes, this 'hands on Guide' will help you make an informed decision about how to proceed. For whilst rural affordable housing shares some common features with any form of development, there are also some distinctive factors that if not understood can complicate or even mean a scheme does not proceed. The result can be wasted time, money and effort.

Armed with the knowledge of the key elements and the process, a rural affordable housing scheme will be something to be proud of, bringing lasting benefits to your business and your community.



CONGDONS ORCHARD | LANDRAKE
ASTER HOMES | CORNWALL CLT

How does an affordable housing scheme get built?



YOULGREAVE CLT | PEAK DISTRICT NATIONAL PARK
Peak District Rural Housing Association



How does an affordable housing scheme get built?

The table below sets out the key steps to developing affordable housing on a rural exception site. Against each step are listed the Frequently Asked Questions relating to that step.

By clicking on an FAQ you will be taken to that part of the Guide that provides answers. Alternatively, you can scroll through the whole document.

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STAGE I

Making the decision to become involved



SHIPSTON | WARWICKSHIRE
Warwickshire Rural Housing Association



STAGE I

Making the decision to become involved

Why should I get involved?

Landowners are essential to providing affordable homes, whether by providing land or developing and managing the homes themselves. There are many examples of where their involvement has resulted in high quality homes. By [clicking here](#) you can see some of these developed by members of the Rural Housing Alliance (RHA)¹.

There are three reasons why you may choose to become involved:

- To benefit my business**

You may want to release some capital by selling land to re-invest in other parts of your business. Or you may want to start or expand your property portfolio by developing affordable homes to rent yourself. Or perhaps an employee cannot find a home they can afford?

- To benefit my community**

You may be aware from your own knowledge of your community that young people and families are moving away because they cannot find a home they can afford. There may be long established residents who cannot find a home more suitable to their changing needs. It may be that the community has already contacted you to see if you would be willing to sell some land for an affordable housing scheme.

- To benefit my business and my community**

Providing homes can help to increase the resilience of rural communities, through the virtuous circle of a locally housed workforce which supports the local economy.

The homes may be part of a vision or “stewardship plan” that you have for the area. If so, being able to articulate your intended legacy is important to address as early in the project as possible.

What are my options?

Whatever your reasons for being involved there are four principal options that you can look at. In essence the greater control you take, the greater outlay of resources in terms of time and money.



By [clicking here](#) you can see what each of the options entails in terms of ownership, the income you will receive, your involvement in the development of the homes and long-term management and maintenance responsibilities.

¹The RHA members are housing associations who develop in rural areas.

STAGE I

Making the decision to become involved

How much income or return can I achieve?

These sites have no open market housing value, so typically, if you sell the land to a housing association or community housing organisation you can expect around £100,000 - £120,000 per acre (£10k a plot), but with some small variation reflecting local and site circumstances. This compares with an agricultural value that is typically around £6,000 to £15,000 per acre.

If you develop and own the affordable homes you can typically expect a return on investment, before finance costs of around 4 to 5% compared with 1% to 1.5% if it was retained as agricultural land. If you sell land to a housing association their return on investment is typically around 4%.

What is a rural exception site?

In many village or rural situations rural exception sites have been vital to providing new affordable homes. These are defined in the National Planning Policy Framework (NPPF) as:

“ Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. Small numbers of market homes may be allowed at the local authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding.”

Increasingly as Local Plans are made up-to-date and have a confirmed five year supply of residential sites, it will be clear that for many villages rural exception sites will be the only form of residential development that will be allowed and able to provide homes that meet the needs of local residents. Increasingly, these sites are being identified in a neighbourhood plan, which is a document produced by the local community that sets out planning policies for their area.

What is affordable housing?

Affordable housing is homes that can be for rent or purchase at below open market rents or prices. Currently, there are three types of affordable housing that are defined in the Glossary of the National Planning Policy Framework (NPPF) that you can access [here](#).

Social rented housing

This is the most affordable form of rented housing, where rents are normally around 60% of open market rents.

Affordable rented housing

Rents charged must be no more than 80% of open market rents.

Private rented housing

Rents charged must be no more than 80% of open market rents. The discount can be removed and the homes converted to home ownership, but the provider has to provide a replacement home. (This is different from private rented sector houses, which are let at open market rents).

Discounted market sales housing

The homes are sold at a discounted % of open market value that is fixed for future sales.

Intermediate housing

The homes are sold or rented at below market value, but there is no limit on the amount of discount that should be offered. This tenure includes shared ownership where the resident can part rent and part buy their home. Perpetuity arrangements can be applied.

Starter Homes

In the future, these are likely to be defined as affordable homes in the NPPF. They provide homes for first time buyers who can then sell the homes on the open market, although they must repay any discount if sales happen during the first 15 years. Legally, a local planning authority can decide to exclude Starter Homes from rural exception sites.

By [clicking here](#) you can find out more detail about each of these tenures.

They have different attributes and by [clicking here](#) you can see a table that sets out what they offer in terms of how affordable they are to someone on a low income, whether they can be retained as affordable housing in perpetuity, used as an asset for borrowing and if they are eligible for public grant.

Who develops affordable housing?

Affordable housing can be built and managed by a number of providers, working alone or in partnership. The main ones are:

Housing associations

These are not-for profit organisations and have delivered most rural exception site schemes. Their principal purpose is to build and manage affordable housing. They employ professional staff to support this activity, using private borrowing and public grants. Some have a private development subsidiary that can build market housing with the profits being used to support affordable housing delivery. Given the levels of public funding made available to them, they are subject to regulation by the Government through the Homes and Communities Agency.

Community Housing Organisations

These are also not-for-profit organisations that are legally constituted local groups that own and manage affordable housing for the long-term benefit of their community. They may be charities, Community Interest Companies or Community Benefit Societies and are subject to the regulation that applies to these types of organisation. In rural areas these are often Community Land Trusts (CLTs). They can develop and own and manage affordable homes in their own right. Alternatively they may work in partnership with a housing association. Under this arrangement the CLT owns the freehold and the housing association builds and manages the homes that they hold on a long lease, usually 125 years.

STAGE I

Making the decision to become involved

Local authorities

Recent changes in legislation have resulted in some councils building homes themselves or setting up companies to do so. You should seek the same degree of negotiation and involvement that you would expect from working with a housing association or community housing organisation.

Housing Charities and Almshouse Trusts

In some areas existing local charities will own and build affordable homes. Many have been dormant for years, but have assets that can help provide a basis for a loan for new development, which might include improvements to their existing homes.

Private developers

Small and medium building companies can build affordable housing, often for a housing association or community housing organisation. In a very few cases the private developer will retain ownership and manage the affordable homes.

Landowners developing and managing homes as part of their property portfolio

Providing homes, including for employees, and managing a property portfolio is common practice for many landowners. There will be certain requirements placed on the affordable homes through the planning permission and associated legal agreements, often a Section 106 agreement, that ensure the homes are let or sold to people with a housing need and a local connection in perpetuity, but this can include employees in the landowner's businesses.



GLEBE TERRACE | ST EWE | NEAR MEVAGISSEY
ST EWE AFFORDABLE HOMES LTD | CORNWALL RURAL HOUSING | CORNWALL CLT

STAGE II

Putting in place the fundamentals



LINTON-ON-OUSE | NORTH YORKSHIRE
Broadacres Housing Association



STAGE II

Putting in place the fundamentals

There is no single trigger for a rural affordable housing scheme on a rural exception site. During this stage the key ingredients for a scheme will be established and it can easily take a year to 18 months. It is worth putting time into this stage as building consensus in this period will result in a smoother and quicker passage through the planning permission process and completion.

How is the need for affordable housing established?

For a rural exception site scheme to proceed, in-depth evidence of the level and nature of housing need will be required. It will shape the design of a financially viable scheme that meets local housing needs and provide the evidence to support the planning application.

Most commonly this data is provided by an independent local housing needs survey. Often these are carried out by a Rural Housing Enabler (RHE). [Here is a list of contact details for Rural Housing Enablers](#). The survey will establish how many people, with a local connection to the parish, have a need for affordable housing. It will also inform what size and type of housing they require, including what they can afford and whether they need any adaptations because of physical disability or need support. Usually the survey is done using a questionnaire which is sent to all people living in a village, with a follow up event to verify the results.

The RHEs have adopted a [Statement of Guiding Principles for Local Housing Needs Surveys](#) that sets out what you should expect in terms of the content and process.

Alternatively, you could speak to your local authority's housing enabling officer. They work with RHEs, or they may collect evidence themselves. You can ask them:

- have they undertaken a housing needs survey for your community?
- are there people on their Housing Register or Choice Based Lettings system who are looking for an affordable home in your parish or surrounding parishes?
- have they collected evidence that shows house prices, rents and incomes for your community?

If you wanted to gauge the likely need before approaching a RHE or the local authority, a quick rule of thumb is that housing should not cost more than three times typical gross household income to buy or that rent for a home should not cost more than 33% of income. You will find typical household incomes from the Parish data produced by the [Office of National Statistics](#). Property websites [Right Move](#) or [On the Market](#) will give you a feel for house prices and rents in your area.

In most places there is a need for affordable housing.

How do I know if I have a suitable site?

Lots of sites are suitable for affordable housing as a rural exception site:

- a small field that is only used for rough grazing on the edge of the village
- part of a larger field that could be developed without making the rest of the land un-farmable
- maybe you have a site with some buildings that are no longer suitable for farming purposes (noting that agricultural buildings may have Permitted Development Rights)
- a site that was put forward for the Local Plan but was not allocated.

There are six principal features that will help you decide whether you have a site that could be considered as a rural exception site:

- size - usually 1 to 1.5 acres (which is roughly 70 metres x 70 metres)
- location - within village or next to its boundary
- environmental constraints - avoid places that flood or have statutory environmental protections
- connectivity to water/sewage/gas/electricity
- access - with safe vehicular access onto and off the site
- the site is in a village or group of villages that are considered 'sustainable', which means have reasonable access to shops, public transport and local services.

[Click here](#) for more information on these six factors.

Always ask your chosen developer, housing association or Rural Housing Enabler to make a detailed assessment as, through their experience, they may have ideas on how to make a site more attractive or work financially. It's always worth asking before ruling a site out.

STAGE II

Putting in place the fundamentals

Who do I contact to offer my site for sale?

There is no single route, but to reduce risk and cost it would be worth making early contact with a Rural Housing Enabler, Community Land Trust or your preferred housing association or developer to gain an in-principle view of whether your site is suitable and what ball park price you can expect.

These sites are for affordable housing so the land price is going to be typically around £10,000 per plot (£100,000 to £120,000 per acre) with some small variation, reflecting local and site circumstances. If you are offered significantly more than this, it is unlikely that the developer has costed the site for affordable housing. Failure to do so could result in a scheme that will not gain planning permission, and cause unnecessary cost to you and disappointment.

How and when do I engage with the planning department?

Early engagement is advisable, usually with the Development Management Officer and the council's housing enabling officer. If you are looking to develop the affordable homes with a housing association or community housing organisation it would be helpful to do this with them. You might also want to invite a 'local leader' from the community and or Rural Housing Enabler. Together you will bring knowledge of the site, the community's needs and expertise to overcome possible barriers.

At this early stage the planning department is likely to want to explore whether there are other suitable sites in the village. They may even trigger a 'call for sites' when all landowners will be invited to put forward possible sites. Any sites coming forward will be considered against a set of published criteria that will include those noted above.

How do I find a housing association or community housing organisation to work with?

You may choose to develop and manage the affordable homes yourself; this is happening more often but is still rare.

In most cases, a landowner will work with a housing association or a formally established community housing organisation, such as a CLT, to help build and/or manage the houses, so you need to find one that you are confident and comfortable working with. This section sets out the questions you could ask these organisations to inform your decision.

How do I select a housing association?

Housing associations are not-for-profit organisations that build and manage affordable homes. They vary in size, geographical

coverage and in their experience and willingness to develop rural housing. [Clicking here](#) will take you to the Rural Housing Alliance web page where you can find out more about the work of housing associations who have signed a pledge to deliver rural affordable housing in an open and collaborative way.

Your first port of call is to ask the local authority housing enabling officer or Rural Housing Enabler for the details of the housing associations that work in the area and have experience of rural schemes.

To help you find the housing association that will best meet your requirements you will need to ask about their:

- experience of developing and managing rural affordable housing;
- approach to working with landowners and communities;
- approach to designing rural schemes;
- policies and process for ensuring homes go to people with a local connection; and
- financial and management arrangements.

By [clicking here](#) you can find some questions you could use.

Always ask to see examples of schemes they have completed and names of landowners or parish councillors that they have worked with that you can contact.

How do I select a formal Community Housing Organisation?

These can be co-operatives, cohousing and, most commonly in rural areas, Community Land Trusts (CLTs). You can find out more about CLTs by [clicking here](#)

Because they are locally based organisations there may not be a number to choose from and in some cases the group may still be at the point of formation, but this need not be a game changer. Most of the questions you would ask of a housing association are also worth asking a CLT. However, because they largely operate under a different regulatory framework you will need to seek other information on their governance and financial viability. More details are provided [here](#). [Here](#) is a short presentation on what is a CLT and the different ways in which they can be delivered.

What will housing associations and community housing organisations want to know from me up front?

When you open discussions with a housing association or CLT, you will need to have some ideas on certain key factors, some of which may be 'red-lines' for you and others where you are willing to be flexible.

STAGE II

Putting in place the fundamentals

In preparation for the initial discussion you may like to ask yourself:

- What do I want to achieve from the scheme?
- Do I want to sell or lease the land?
- Do I have a figure in mind that I want for the land or the lease value?
- Do I want to decide who lives in the homes?
- Do I want to maintain the houses, to ensure they are properly repaired?
- Do I have any capital to invest in the scheme and what would I be looking for as a return?

How do I gain community support?

The attitude of the local community can make or break an affordable housing scheme. Experience shows that given the opportunity to be involved constructively, local residents can be the scheme's greatest champions. This requires early engagement, openness, sensitivity, a willingness to accommodate their concerns and explain the reasons when this is not achievable. At its heart it is about informed communication, communication, communication!

Who can help me involve the community?

You do not have to manage this alone and a slightly hands off approach may be advantageous as new development can lead to anxiety and antagonism from some members of the community. Managed properly it can be a positive experience and there are four sources of support you can draw on:

- Rural Housing Enablers (RHEs) who work independently of any single organisation, providing information and advice to help the community engage collaboratively and, when necessary, act as a broker across the different interests involved. [Here](#) you will find the contact list for the RHEs
- The housing association who is building the homes should actively engage with the community and will often do this working with a Rural Housing Enabler
- the local authority's housing enabling officer (or community development officer) may be able to help
- in some areas there will be a local community housing adviser. [Here](#) you will find a contact list for them
- some villages may already be working on or have an adopted Neighbourhood Plan. It may already have identified any housing requirements and be involving the community. Your Local Planning Authority will be able to tell you if there is a Neighbourhood Plan being prepared or adopted by your community.

Whilst you may not want to be directly involved in activities that engage the community, you should be kept informed of what steps are being taken to bring the community on board.

When and how will the community be involved as the scheme progresses?

There are two golden rules:

- start early, to dispel myths and assure residents that the scheme will be developed with, not imposed on, them
- keep the community involved all the way through to completion.

The main points at which you can build that support and give them an opportunity to be involved are:

Create a positive supportive environment

By talking informally to local 'movers and shakers', preferably someone who is sympathetic to what you want to do. This could be a parish or district councillor, vicar, or 'local leader'.

First formal contact

This is usually with the parish council or community group to explain more about the scheme and why it is needed, what could be their next steps, including promoting the scheme with the wider community.

Identification of housing needs

The parish council can publicise why evidence is being gathered and how people can take part.

Open events to explain what is being proposed and why

This may be an open meeting or an open exhibition. Experience shows that exhibitions in the village hall are a more constructive way of engaging the community.

Selecting a site

The community may come and ask you for a site, or there may be a formal call for sites when landowners will be invited to submit possible sites. The local planning authority will take into account the community's and developer's views of the suitability of each potential site.

Scheme design

The main concern of the community is usually what will the houses look like and who will live in them. Any developer, even if this is you, should give the community the opportunity to offer ideas and discuss the layout and design through a public exhibition.

Allocation policy and perpetuity arrangements

It is good practice to keep the parish council informed of the policies and agreements that will set out what homes will be provided and the criteria that those living in them must meet.

By [clicking here](#) you can find more detailed guidance on how to engage the community so it is a constructive and positive experience.

STAGE III

Pre-development

ILLMINGTON | WARWICKSHIRE
Warwickshire Rural Housing Association



STAGE III

Pre-development

How is a scheme designed?

The look and feel of the houses is extremely important. As well as the photographs throughout this Guide, [here and here](#) are some examples that show how well these homes can look.

If a housing association or Community Land Trust is involved in the scheme, they usually have their own architect. If you are building the houses yourself, you can choose an architect to work with, but you will have to pay their costs. The Royal Institute of British Architects (RIBA) provides advice on finding and working with an architect which can be accessed [here](#).

Your local planning authority may have design requirements set out in its Local Plan, Development Management Document or a Supplementary Planning Document. These will be available on your council's website. Your community may also have prepared a Village Design Statement. Your, or the housing association's, architect should be fully aware of this advice and engage at an early stage with the Development Management officers in the local planning department.

Building high levels of energy efficiency into the homes can reduce the running costs, making them more affordable to the people living in them. This is particularly important where schemes are 'off-grid'. Currently the costs of building such homes are higher than conventional construction, but as more schemes adopt these principles the costs are falling. There are now examples of rural schemes that are highly energy efficient, but still reflect the form and style of local buildings.

The community will be particularly interested in the design of the homes and should be engaged in the design process, including showing them the final design before it is submitted for planning permission. It may be that not all their requirements can be met, in which case it is important to explain to them why this has not been possible.

How is an affordable housing scheme financed?

The starting point is whether a scheme is financially viable, in essence does the income raised from rents and sales cover the cost of development. This table shows the typical values and their apportionment across cost and income for a rural exception site scheme of 10 affordable rented homes developed by a housing association. It is very unlikely that any partner will take forward a scheme where costs make the scheme simply unviable. Being realistic about this is important.

| COSTS | | INCOME | |
|---------------------------|-------------------|-------------------------------------|-------------------|
| Land price | £100,000 | Capitalised net rental income | £955,186 |
| Acquisition costs | £18,500 | Balance covered by grant or subsidy | £523,711 |
| Construction costs | £1,208,025 | | |
| Professional fees | £72,482 | | |
| Disposal fees | £15,540 | | |
| Finance | £64,351 | | |
| Total scheme costs | £1,478,897 | Total scheme income | £1,478,897 |

Where a landowner develops the scheme themselves this would look very similar except that you: will have a lower land price, reflecting its current use or value on the 'books'; no acquisition costs; may decide not to borrowing capital, but fund from your own resources; and you are unlikely to be able to access public grant.

Typically, 80% of the finance for a scheme comes from privately raised loan. The remainder is provided by public grant. It is worth noting that even if the land price of £100,000 to £120,000 the scheme would not be viable without this grant funding.

How does a housing association fund an affordable housing scheme?

The housing association will carry out a financial appraisal of a potential scheme taking into account the above costs and income. It will fund the scheme from a mix of private loan, and some form of grant subsidy from one or more of the following sources:

- grant which is sourced through a bidding process from the Homes and Communities Agency
- Local authority capital grant or money collected from other sites in place of affordable housing - known as commuted sums
- its own reserves
- using its market housing subsidiary to develop housing for sale to cross-subsidise the affordable housing.

How does a community housing organisation fund an affordable housing scheme?

Schemes developed by a community housing will go through the same appraisal process as a housing association scheme. As they are unlikely to have assets against which to secure a loan they will probably go to a charitable funder such as Triodos or the Charity Bank. They are able to draw on the same sources of grant funding as a housing association and in addition the Community Housing Fund managed by the Homes and Communities Agency.

Sometimes a CLT will work in partnership with a housing association who, in exchange for a long lease, will undertake the development of the properties. In this situation the housing association will raise the capital finance.

Can market housing be used to cross-subsidise the affordable housing on a rural exception site?

Yes, it can, but only to the extent that the principle purpose of the development remains the provision of affordable housing to meet local housing needs in perpetuity. Therefore, the amount of market housing that is allowed is only up to that which provides sufficient subsidy to make the scheme viable and pay for the affordable homes. Equally, it cannot be used to increase the value of the land above a normal exception site value. This will be closely examined as the scheme moves forward to planning application.

STAGE III

Pre-development

Most planning authorities will require the applicant to provide economic viability evidence to show why the market housing is needed and what it is paying for. In such cases most local authorities will be happy to negotiate to ensure there is a viable scheme, as long as the principle purpose of a rural exception site - to provide affordable housing to meet local housing needs - is not lost.

Can I access any Government funding if I develop the homes myself?

Unless you become a Registered Provider then you will not be able to access grant in your own right. Registration is a complicated process and there are very stringent financial and governance requirements that you may consider too onerous for the number of homes you want to build. For this reason it is usually preferable to work with an existing housing association or formally constituted community housing organisation.

Although the funding is available for developments of 5 dwellings or more, the priorities are larger scale developments. However, if combined with other loan funding a case could be made that the scheme offers good value for money to the public purse. [Here](#) is a link that describes this fund and how to apply for it. It would also be worth talking to your local office of the Homes and Communities Agency who manage this fund.

Where can I go for advice on financing a scheme

Every scheme has a different financial profile. This will be determined by factors such as the values in the local housing market, the tenure and house type mix on site, including the different forms of affordable housing, and the costs and availability of loan and grant funding. For these reasons it is worth seeking advice from an individual or organisation that has experience of financial appraisals for rural exception site schemes.

If you are working with a housing association or community housing organisation they should be willing to share their appraisals with you and discuss the factors that have been taken into account.

To help you gain a headline understanding of what to expect you could use this spreadsheet by [clicking here](#). There are some notes on how it works and how to complete it [here](#). This will give you an initial idea of how a scheme might stack up, but an early conversation with a housing association, community housing organisation, or developer is essential. Not only will they have the relevant values for your area, but they will also be able to discuss ways in which a seemingly unviable scheme could be made to work. This might include accessing public grant or using a small amount of cross-subsidy from market housing to cover the funding gap.

What tax arrangements should I make?

Direct taxation does not have special rules for affordable housing specifically so you must look at the rules as they apply to property generally and the opportunities that might be available by entering into a scheme for affordable housing. There are a number of areas that you could consider with your professional advisers.

Income Tax

The rent received from an affordable home, like any other property, will be liable to income tax at the owner's highest marginal rate, net of repair expenditure but not capital improvements. There are some tax planning opportunities worth considering;

- a landowner could release property that has significant potential for generating income by offering the existing tenant a new, and perhaps more suitable, house as part of a affordable housing scheme
- a landowner may have houses in need of upgrading that could be let as affordable housing at higher than current rents. Tax relief can be claimed for the repair element of these upgrades. Improvements will, of course, not be income tax allowable but will form part of the improvement cost for Capital Gains Tax (CGT) purposes on an eventual sale. Many landowners keep property from generation to generation so this is of limited value in these cases. Care needs to be taken, however, when the property being "released" has been occupied at a low rent as the repair element of any upgrading will be restricted for tax purposes where the dilapidations arose during the period of letting at a low rent.

Capital Taxes

The capital tax issues revolve around CGT (mentioned above) and Inheritance Tax (IHT).

Where landowners do use this route to release valuable property, currently occupied by a sitting tenant, for sale then there is inevitably going to be a CGT charge based on a high current value of a property with vacant possession against a base cost (perhaps March 1982) at tenanted values. One potential way to reduce this impact might be to take advantage of the strict part disposal method of calculation for CGT, which will usually increase the base cost available, but does then require you to use this method on future disposals.

IHT will be another important area to be considered, as adding value to an estate will, potentially, increase the IHT bill on the death of the owner. It might be that farm workers are occupying property that will qualify for 100% Agricultural Property Relief on the owners death and moving them from this property to a lower value property and releasing the latent value will increase the IHT due on the occasion of a chargeable event, so careful consideration is needed.

STAGE III Pre-development

Outright Sale/Long Lease of Land

The outright sale of a freehold or long leasehold interest in land will be a disposal for CGT purposes and subject to tax at currently 20% (non-residential). There will be the option of using the strict part disposal method of calculation, which is often advantageous when selling land for development because of the relatively high value per acre compared to the remaining estate. Clearly the outright sale will turn land into cash that could be reinvested in other property and achieve the highest values but with the lease route there will be cash released to reinvest but in, say, 125 years typically, the freehold and houses will revert to the landlord, thereby increasing the landowner's housing stock in the longer term. The two calculations might look like:

| ALTERNATIVE BASIS | | £ |
|-----------------------------|--|---------------|
| Proceeds | | 100,000 |
| Costs of sale | | (5,000) |
| | | 95,000 |
| Base value at 31 March 1982 | | (20,000) |
| Gain | | 75,000 |

| STRICT BASIS | | £ |
|---|--|-----------------|
| Proceeds | | 100,000 |
| Costs of sale | | (5,000) |
| | | 95,000 |
| Base value at 31 March 1982 *(entire estate) | *1,000,000 x 100,000 *3,000,000 | (33,333) |
| Gain | | 61,667 |

Entrepreneurs Relief might be in point where there is a sale of a recognisable business and in this case a tax rate of 10% might be possible. However, there are strict rules that apply in order to qualify for the Relief and would need to be looked at carefully before any sale is contemplated. Again, of course, turning land assets into cash may have significant implications for IHT going forward so needs to be considered carefully too.

Gifting to Charity

Where there is a gift to charity of the freehold then, although there is a disposal by the land owner in the normal way, there is no liability to CGT. Additionally, income tax relief can be claimed under the Gift Aid rules as a deduction of the market value from income, unless the donor derives any benefit from the donation or the property was acquired within 4 years of the gift and the main purpose of acquiring the asset was to claim tax relief. Usually, where the charity retains the land, it will be exempt from Stamp Duty.

How do I gain planning permission?

If you are selling or leasing the land to a housing association or legally constituted community organisation, they will take responsibility for any detailed pre-application discussions, preparing and submitting the planning application and associated legal agreements such as Section 106 Agreements.

When should I contact the planning department if I am developing the homes myself?

It is always a good idea to have an early informal discussion with the local planning department. This will usually be someone from the Development Management team. They should be able to give you an initial view on the suitability of the site, what development they would be able to support and offer advice on the information they will require as part of a planning application. Where they think there may be problems the planners should be able to advise on ways that will make a scheme more acceptable.

You may find it helpful to also invite a Rural Housing Enabler or the local authority's housing enabling officer to these discussions as they will have established relationships with the planning department and will be able to help you put forward your proposal and, if necessary, explain some of the jargon.

Most local authorities now provide information on their websites to guide you through the process of making a planning application. In addition, if you are developing the homes yourself you may like to employ a planning consultant or architect to help you prepare and submit the application.



STAGE III Pre-development

How much will it cost me to submit a planning application?

Currently it costs around £385 per dwelling an application for full planning permission on a scheme of less than 50 homes. In addition, you will need to factor in the costs of assembling the supporting information. As a rough guide this is the standard information you are likely to need to provide and the costs involved.

| ITEM | APPROX. COST |
|--------------------------------------|-----------------|
| Housing Needs Survey | £2,000 |
| Highways survey | £2,000 – 3,000 |
| Topographical survey | £1,500 – 2,000 |
| Geo technical survey | £2,000 |
| Flood risk assessment | £1,250 – £1,500 |
| Land searches | £160 |
| Layout/design and technical drawings | £10,000 |

These are only indicative and do not take into account additional expenses that may be incurred in.

As the scheme progresses, the level of formality increases and it is likely that the planning department will charge a fee for pre-application discussions. This helps pay for the service they provide. You should also factor in your time for the pre-application discussions with the planning department.

By [clicking here](#) you can find more detailed advice on the costs and process.

How can I ensure the homes remain affordable?

Once you have decided to provide land for affordable housing or to develop and manage the homes yourself, it is likely that you will want to ensure that the land is only used for that purpose in perpetuity. Equally, the local planning authority will require legal agreements to ensure the houses remain affordable before they grant planning permission. This section sets out the main legal arrangements that are usually used to make sure these requirements are met.

Section 106 Planning Agreement

These are legal agreements given force through the Town and Country Planning Act 1990. Almost all local planning authorities will require a S106 agreement to be signed as part of a planning permission for a rural exception site. The signatories will be the local authority and the developer, which could be the housing association, community housing organisation or yourself if you are developing the homes. The S106 agreement is attached to the land and therefore lasts ‘in perpetuity’; it is possible to change or remove a S106 but this can only happen after 5 years, and needs the consent of **all** the signatories.

The S106 agreement sets out the tenure of housing to be built and the definitions of who can occupy the homes. Typically these will be households who:

- are unable to meet their housing need through buying or renting a home on the open market; and
- have a local connection, which usually includes people who:
 - have moved away, but have a long term connection with the parish
 - have family members who they support, or who support them, living in the village
 - are employed in the parish or immediate locality.

What happens if there is no one in the parish who meets these criteria?

If there is no one in the parish that meets the eligibility criteria the homes will be offered to people with an affordable housing need living in an ever widening geographic area, beginning with adjoining parishes and finishing with the whole local authority area. This is often known as the ‘cascade’. Each time a property comes up for re-let the process reverts back to first offering the homes to those who have a housing need and are connected to the parish.

Use of Section 106 Agreements to retain affordability of discounted sales housing

Where the affordable housing is in the form of discounted market sales, which is where the homes are sold at a % of market value that is fixed for future sales, the S106 will set out the initial sales price and the percentage discount below market value that will be apply to any future sales.

STAGE III

Pre-development

Planning Conditions

Very occasionally the local planning authority will use planning conditions on the planning permission to achieve the same effect as a S106 agreement, usually where a housing association is the developer.

Are there any statutory protections to prevent the affordable homes being sold into the open market?

Yes, governments have made special arrangements to ensure that affordable homes built in small rural settlements of less than 3,000 population can not be sold into the open market:

- **Exemption from the Right to Acquire¹**
This exemption prevents a tenant of a home rented from a housing association buying their home, if it is in a settlement of less than 3,000 population.
- **Designated Protected Areas²**
In these areas the housing association restricts the amount of equity that the resident can own to 80% or it will commit to buying back the property if the tenant has 100% ownership. This prevents shared ownership housing being sold as open market housing.

¹This is an exemption from Housing Act 1996 rights.

²This is an exemption under the Housing and Regeneration Act 2008.

Can I prevent the homes being sold under the Right to Buy or Voluntary Right to Buy?

Yes. The Right to Buy is only available in law to residents of local authority owned homes. You may, therefore, choose to work with a housing association or community housing organisation as their homes cannot be sold under the Right to Buy.

However, it is worth considering what steps you could take to prevent the sale of these homes should the Right to Buy be extended under a voluntary arrangement (Voluntary Right to Buy) or a change in legislation.

Check if the housing association has a policy for refusing sale of its rural housing. As long as the Right to Buy is voluntary, housing associations will have this discretion, but its approach must be formally set out in its policies.

Where the development is through a CLT which is a Registered Provider, or where they are leasing the homes to a housing association, the same check should be done. In addition check that the CLT has included in the lease agreement a requirement that the housing association consult the CLT before they agree to any Voluntary Right to Buy sales and that the CLT can refuse permission on any grounds.

Are there any other ways I can protect the use of my land for affordable housing?

Covenants

Yes, you could consider using a covenant as part of the deed of sale. By way of example, the landowner might stipulate that the buyer of the development site enters into the following positive covenants in the purchase contract:

The Buyer covenants with the Landowner:

- *to promote the Affordable Housing Dwellings as part of the Development;*
- *to use all reasonable endeavours to procure that the Affordable Housing Dwellings comprised in the Development shall be maintained as Affordable Housing in perpetuity; and*
- *that in the event that the Local Planning Authority shall resolve to grant Planning Permission for the Development subject to the Buyer entering into an Affordable Housing Obligation, to use reasonable endeavours to agree the terms of the Affordable Housing Obligation with the Local Planning Authority and complete the same as soon as practicable.*

As a covenant this will retain the homes as affordable housing even if there are changes in statute as legislation rarely applies retrospectively. Further legal advice should be sought should you want to apply a covenant.

Overage Agreements

A further safeguard to consider is an overage agreement, so that if any sales into the open market occur, you can claim some or all of the uplift in value from the seller. This is very much a last resort.

For both covenants and overage agreements you will need to take expert legal advice.

It is important to note that any perpetuity arrangements are likely to impact on the cost and availability of loan finance because lenders perceive that they will hinder their ability to recover their loan in cases of bad debt.

STAGE IV

Build and completion



ASHURST | WEST SUSSEX
English Rural Housing Association



STAGE IV

Build and completion

How is the build contract managed?

The physical process of building the homes usually takes 9 to 18 months.

If you have sold your land to a housing association or Community Land Trust, they will take responsibility for selecting the builder and managing the build contract.

If you decide to build the homes yourself you may need to appoint a builder. You will also need to consider whether you have the time to manage the build contract as this can be a time intensive activity. It may be worth appointing someone to do this on your behalf.

Whichever route you choose it is worth making sure the community are kept informed on progress. Just a short note to the Parish Council on progress and expected timetable will help reassure the community that things are going along as expected, or are informed if there is a delay and why this has occurred.

During this period, use the time to ensure that all decisions needed on the type of tenancy agreements for residents or decisions on who lives in the homes have been made, so you can start letting the homes as soon as possible after the building works have been completed.

Who decides who lives in the homes?

Who decides who lives in the home if they are provided by a housing association?

Usually the local authority is responsible for nominating candidates who will live in the homes, even when they are built and/or managed by a housing association. They do this through the allocations process. It is worthwhile gaining an understanding how this will work early in the delivery of a scheme.

There are four documents that will set the criteria for deciding whether someone qualifies for a home in the scheme and can therefore be nominated.

- **The Allocations Scheme** - sets out the how nominations will be made and the criteria that determine whether someone qualifies for affordable housing. Whilst their overriding duty is to help households with the greatest housing need, they also have the ability to respond flexibly so homes can be allocated to people who have a local connection with the area.

In addition councils will also often produce:

- **Local Lettings Policies**- which set out the criteria or restrictions on a property that applicants must meet in order to rent that property. These policies can reinforce the local connection criteria.

- **Local Lettings Plans** - which are scheme specific and run alongside the S106 agreement and can set out any specific local connection requirements. You and the community should be consulted on the design of a Local Lettings Plan.
- **Section 106 Agreement** - which is part of the planning permission will set out for who can occupy the homes. Usually, these are criteria that will demonstrate that the resident has a local connection and an affordable housing need.

Who decides who lives in the home if they are provided by a community housing organisation?

Where a community housing organisation owns and manages the homes themselves, they will be responsible for nominating residents, usually people who are registered on their housing register. They will do this using an Allocations Policy, which has to be fair and defensible, conforming with equalities legislation and any covenants and Section 106 Agreements.

Can I have a say who lives in the homes even if they are built or owned by a housing association or community housing organisation?

Yes, there are two ways of doing this:

Nomination Rights

You can negotiate an arrangement whereby some or all of the properties are occupied by people you have nominated, which could be family members or employees.

Where the scheme has received public grant funding this is likely to be a percentage of the homes. If it has been privately funded, particularly if this has been from your business, you could reasonably expect to have 100% nomination rights, subject to any planning conditions.

In both cases, the local authority will want to be assured that the homes will remain affordable in perpetuity and any local connection criteria are met.

Landowner referral arrangements

An alternative is to negotiate for the right to refer individuals to the council, housing association or CLT as part of their allocation process. It will be expected that you provide full details of their current housing position, why they are in housing need, how they meet the local connection criteria and what support they might need to maintain their tenancy. To avoid properties standing empty it is likely that there will be a cascade mechanism, so if you are not able to refer someone the property can be let to someone else who comes through the council or housing association route. The next time a property becomes vacant, you would again have the opportunity to refer individuals.

STAGE IV

Build and completion

Can I decide who lives in the homes if I have built and managed them myself?

To an extent, yes you can. However, you will still need to make the nominations in line with the eligibility criteria set out in the S106 agreement.

You may also prefer not to be solely responsible for the nominations. Deciding who lives in the homes when you live in the community can put you in a difficult position.

How do people apply to live in the affordable homes?

For homes to rent

In most council areas, the first step for someone with a need for rented housing is to register with the council's Choice Based Lettings (CBL) scheme. Applicants will then be put into different bands that reflect the acuteness of their housing need. When new or existing properties become available, applicants can 'bid' for the property. Any restrictions on who can 'bid', such as a S106 agreement, will accompany the advert. The council will nominate the property to the bidder who has the greatest housing need and meets the relevant criteria, including the local connection criteria of a S106 agreement. In some areas applicants will need to be on the council, housing association or community housing organisation's Housing Register. More detail on the process of allocations can be found [here](#).

Affordable home ownership housing

This covers a range of tenures including shared ownership and shared equity housing. The applicant registers with their local Help to Buy Agents who will assess their need, ability to pay and whether they meet any local connection criteria that apply to the property. If the criteria are met and a property is available the agent will contact and then support the applicant through the purchase of the home. This [link](#) provides a helpful FAQ on Help to Buy Agents and the services they offer.

In some cases the housing association will do their own assessment of the ability of the potential resident to afford shared ownership, using the Home Buy Agent to market the properties.

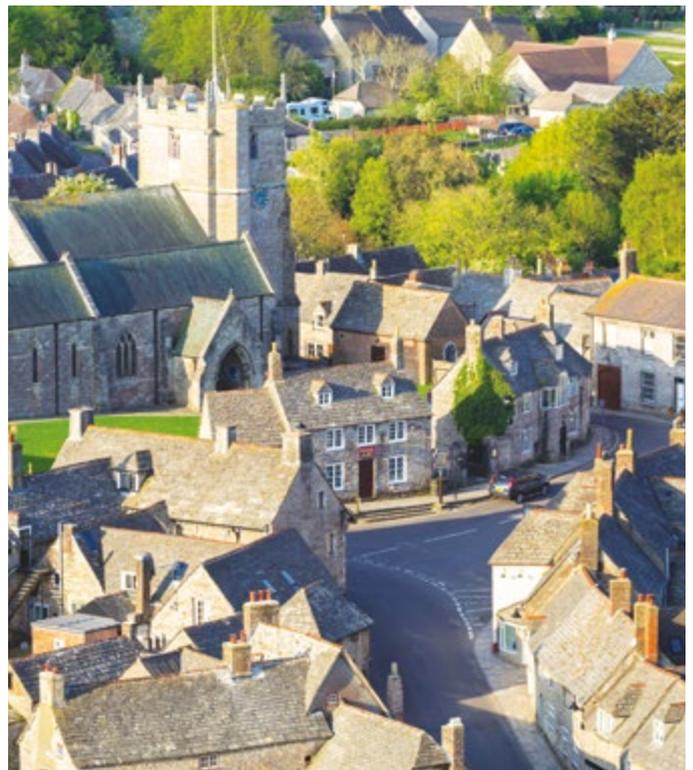
You may instead prefer to have a more arms-length involvement. In such cases you may consider suggesting that a nominations panel makes the decisions; it could include you, housing allocation staff from the council and possibly the parish council.

Managing the nominations in this way will also bring a transparency to the process, avoid you being solely responsible for choosing between people in your community and maintain the community's support for the scheme.

Celebrate, evaluate and learn!

Once the houses are occupied, celebrate and enjoy the success. It is not a quick or easy process, so take the time to enjoy what you have achieved.

Only a few projects write down what they have learned from the process and evaluate the project. But it is valuable to do so, for you and for other people considering doing the same thing. This type of assessment should form part of responsible investment and management, but also will provide ongoing community engagement and valuable insights to inform future projects.



What does success look like?

HUTTON RUDBY | NORTH YORKSHIRE
RURAL EXCEPTION SITE SOLD TO HOUSING ASSOCIATION



The scheme was completed in 2016 and provides:

- 2 x 3 bedroom bungalows for rent
- 7 x 2 bedroom homes for rent
- 5 x 3 bedroom homes for rent
- 2 x 3 bedroom shared ownership homes

Knowing of the need for affordable housing amongst friends and neighbours and difficulties with an initial site, prompted local landowners Keith and Avril Grimston to provide a site for to Broadacres Housing Association for 16 affordable homes for local people.

The district councillor was very aware that local people were not able to afford a home in the village. Working with the Rural Housing Enabler and Parish Council a housing needs survey was completed. However, lack of clarity of who would live in the homes led to a low response and split village opinion. This, plus concerns about the impact of surface water drainage, led to the first site being abandoned. However, the voices of those looking for affordable homes were heard and after attending a community consultation event Keith and Avril Grimston offered a site on the edge of the village. A coffee morning was held near Christmas, offering mince pies and refreshments and the opportunity for people to pop in, complete forms registering their need for a home, to look at previous examples of schemes and make suggestions of what they would like to see on a potential scheme. By the time it came to allocating the properties, there were 40 eligible households registered for the 16 properties.

As a rural exception site the land was sold at a typical rural exception site value to Broadacres Housing Association who developed and manage the scheme. A close working relationship developed between them, the landowner, ward councillor, the RHE and the Parish Council. There were some unforeseen barriers, but working together these were overcome.

On the Open Day the initial objectors came and looked around the scheme and were impressed by what they saw. The homes have blended in with the character of the village extremely well and have been allocated to people known to the local community. In 2017 the scheme was officially opened by HRH The Princess Royal.

“

We think the houses are tidy, look great against the road and it has become a nice little community. We were very pleased and proud to be involved.”

SYMONDSBURY | WEST DORSET

RURAL EXCEPTION SITE SOLD TO LOCAL COMMUNITY LAND TRUST



Landowners Amanda and George Streatfeild provided a site that now provides ten homes for local families. The homes are owned by the local Symene Community Land Trust.

The scheme was completed in 2016 and provides:

- 5 x 2 bedroom houses for rent
- 2 x 3 bedroom houses for rent
- 1 x 4 bedroom houses for rent
- 1 x 2 bedroom house for shared ownership
- 1 x 3 bedroom house for shared ownership

Motivated by the lack of affordable housing in her local village of Symondsburry in Dorset, Amanda has been involved with the CLT since 2008 and is now a Director. Finding a site had been problematic, but Amanda realised they owned a small piece of land next to a medical centre and some allotments, for which they had also previously provided land.

As a rural exception site the land was sold at a fixed sum per plot at a typical rural exception site price. The CLT owns the homes, which through a long lease were developed and now managed by Hastoe Housing Association.

“

Being part of a Community Land Trust scheme has been a privilege. We were lucky enough to have some land in the right place and at the right time which we were able to offer to our local community and to be part of the planning and design of the scheme was an added bonus. The process from first identifying the need to seeing families move in was protracted, but the support of our advisors, headed by Steve Watson, the proactive Hastoe Housing Association and a very positive West Dorset District Council, helped us create a scheme which we hope can be replicated in other areas.”

GREAT BARDFIELD | ESSEX

RURAL EXCEPTION SITE SOLD TO A HOUSING ASSOCIATION WITH LANDOWNER HAVING INITIAL NOMINATION RIGHTS ON TWO OF THE PROPERTIES.



Landowner Nicholas Reed sold a rural exception site that now provides 12 affordable homes that were developed and now owned and managed by English Rural Housing Association.

The scheme has provided:

- 2 x 1 bed flats for affordable rent
- 6 x 2 bed houses for affordable rent
- 3 x 3 bed houses for affordable rent
- 1 x 2 bed house for shared ownership

Great Bardfield is a very attractive thriving village with a local school, services and businesses. This has attracted many people to move into the village which, alongside restrictions on development, has pushed up the price of renting or buying a home beyond the means of many local people.

In response the Parish Council invited English Rural Housing Association to help them find a solution and together they approached the landowner about a potential site. As it was outside the village development limit with no prospect of the site gaining planning permission for open market housing he was happy to sell the site for affordable homes. He was also attracted by the prospect that this could result in adjoining land to be allocated for development in the future and that he could have initial nomination rights to provide homes for two of his employees.

The Rural Housing Enabler and housing association staff worked closely with the landowner and parish council, undertaking a housing needs survey, mediating when needed and ensuring the community was engaged in and informed about the scheme's design and progress.

Through the materials used and architectural detail, the homes are designed to fit in with the existing village environment and include measures to improve the energy efficiency of the homes and reduce fuel costs.

“

In the end my employees never took up the offer, but now having seen the end product they may have wished they had. The appearance of the houses is extremely good and have blended into the village very well. There is a problem with young people living in the area not being able to afford a home, so it is pleasing that this has helped to some extent. English Rural Housing did a good job coordinating me and the wishes of the parish council, and the village overall has been pleased with the outcome.”

Credits and contacts for photos

JULY 2017

| PAGE | LOCATION | PROVIDER | CONTACT |
|---------------------|---|---|---------------|
| Front | Brambleside St Teath Cornwall | Cornwall Rural Housing Association Cornwall CLT | 01208 892 000 |
| Inside front | Kinlet Shropshire | Shropshire Rural Housing Association | 01743 874 848 |
| | Youlgreave Derbyshire | Youlgreave CLT and Peak District Rural Housing Association | 01629 827 004 |
| | Shipston Warwickshire | Warwickshire Rural Housing Association | 0300 123 4009 |
| | Linton-on-Ouse North Yorkshire | Broadacres Housing Association | 01609 767 900 |
| | Illmington Warwickshire | Warwickshire Rural Housing Association | 0300 123 4009 |
| | Ashurst West Sussex | English Rural Housing Association | 020 7820 7930 |
| 3 | Congdons Orchard Landrake Cornwall | Aster Homes Cornwall CLT | 0333 400 8222 |
| 4 | Youlgreave Derbyshire | Youlgreave CLT and Peak District Rural Housing Association | 01629 827 004 |
| 6 | Shipston Warwickshire | Warwickshire Rural Housing Association | 0300 123 4009 |
| 9 | Glebe Terrace St Ewe Near Mevagissey Cornwall | St Ewe Affordable Homes Ltd Cornwall Rural Housing Cornwall CLT | 01726 843 159 |
| 10 | Linton-on-Ouse North Yorkshire | Broadacres Housing Association | 01609 767 900 |
| 14 | Illmington Warwickshire | Warwickshire Rural Housing Association | 0300 123 4009 |
| 20 | Ashurst West Sussex | English Rural Housing Association | 020 7820 7930 |
| 23 | Hutton Rudby North Yorkshire | Broadacres Housing Association | 01609 767 900 |
| 24 | Symondsburry West Dorset | Hastoe Housing Association Symene Community Land Trust | 0300 123 2250 |
| 25 | Great Bardfield Essex | English Rural Housing Association | 020 7820 7930 |

If you would like photos and / or details of your scheme to appear in the next version of this Guide, please send them to us (our contact details are on the back page). We can't promise to include them all!

This guide has been written by Jo Lavis, of Rural Housing Solutions, and Jason Beedell, of Strutt & Parker. They are very grateful for the help of the many people who commented on the early drafts.

Jo and Jason care passionately about rural housing. They hope that this guide is useful and encourages more landowners to consider putting forward sites for affordable housing as it is an issue that affects almost all communities and businesses.

Please do call any of the contacts above if you would like to discuss housing or have any comments on improving this guide.

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