



Appeal Decisions

Site visit made on 20 June 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25th July 2017

Appeal A Ref: APP/Z5630/W/17/3168528

20 Villiers Road, Kingston-upon-Thames KT1 3AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Rajan Patel, DBPlanners Ltd against the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 16/12641/FUL, is dated 15 June 2016.
 - The development proposed is demolition of existing vacant caretaker building and erection of new building housing a mix of 7 dwellings.
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Appeal B Ref: APP/Z5630/W/17/3173718

20 Villiers Road, Kingston-upon-Thames, KT1 3AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Rajan Patel, DBPlanners Ltd against the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 17/12101/FUL, is dated 4 February 2017.
 - The development proposed is the demolition of existing building and erection of a new building housing 5 dwellings across ground, first and roof level, associated bins and cycle storage, boundary wall and extinguishment of existing driveway access.
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Decisions

Appeal A Ref: APP/Z5630/W/17/3168528

1. The appeal is allowed and planning permission is granted for demolition of existing vacant caretaker building and erection of new building housing a mix of 6 dwellings at 20 Villiers Road, Kingston-upon-Thames KT1 3AR in accordance with the terms of the application, Ref 16/12641/FUL, dated 15 June 2016, and the plans and documents submitted with it, subject to the conditions set out at Schedule A of this Decision.

Appeal B Ref: APP/Z5630/W/17/3173718

2. The appeal is allowed and planning permission is granted for demolition of existing building and erection of a new building housing 5 dwellings across ground, first and roof level, associated bins and cycle storage, boundary wall and extinguishment of existing driveway access at 20 Villiers Road, Kingston-upon-Thames KT1 3AR in accordance with the terms of the application, Ref 17/12101/FUL, dated 4 February 2017, and the plans and documents submitted with it, subject to the conditions set out at Schedule B of this Decision.
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Procedural Matters

3. The application subject to Appeal A was originally for 7 dwellings; however, it was amended to 6 dwellings prior to consideration by the Council. The Council confirm that consultation has taken place on the 6 dwelling scheme. I will, therefore, determine Appeal A on the basis of the scheme which was considered by the Council.
4. The application subject to Appeal A was considered by the Council on 25th January 2017; however, the appeal was lodged before the Council issued the decision notice on 15 February 2017. The decision notice sets out the grounds upon which the Council would have refused the application including over-development of the application site; amenity space provision and; character and appearance.
5. The Council indicate that had it had the opportunity to determine the application subject to Appeal B it would have refused it on the same grounds as referred to above.

Main Issues

6. Taking into account the above, the main issues in both cases are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of future occupiers with specific reference to outdoor amenity space.

Reasons

Character and appearance

7. The appeal site is situated on the western side of Villiers Road and comprises of a vacant, detached two-storey traditional dwelling house formerly in use as a school caretaker's house associated with the adjacent school. The surrounding area is predominantly residential although a school, recreation ground and cemetery are all in close proximity.
8. The appeal site is situated between a staff car park to the north and open entrance areas of the school and school administrative buildings to the south and west. The surrounding area is of mixed character comprising of older two to two and a half storey housing stock and more recent three and four storey apartment blocks and town houses and community buildings.
9. The existing building is set back from the road behind a modest front garden and brick wall. It has a bay window to the ground floor, hipped roof and contrasting brick detail reflecting the traditional semi-detached properties on the opposite side of the road. The Council does not raise concern regarding the demolition of the existing building and from everything which I have seen in submissions and on my site visit; I have no reason to disagree.
10. Appeal A seeks to replace the existing building with a two storey detached building with a mansard roof and timber 'arc' element housing 6 dwellings. The building would occupy a high proportion of the site and the front elevation would be in close proximity to the street frontage.
11. The traditional houses opposite have narrow frontages with limited set back from the road and small separation gaps between properties. Higher density development exists to the north in the form of apartment blocks on the western

side of the road which generally has a varied building line. Indeed I noted that Stewart House, (No 42 Villiers Road) is sited close to the front footpath. Consequently, I consider that the set back of the proposal would be acceptable.

12. The appeal site is set within a spacious context, some distance from Winery Lane apartments and No 67 Villiers Road. There is also a gap of approximately 43m between the two storey corner of the main school building and the rear of the existing building. Whilst this gap would reduce following redevelopment of the appeal site and the new extension planned for the school a reasonable separation distance would still be retained. Taking into account the high density of development in the wider area, together with the spacious context of the appeal site itself, I consider that the appeal site can support a higher density development.
13. The proposed building would be approximately 8.9 metres in height compared to the existing building which is around 7.4m and the apartment buildings which are approximately 10.29m. The height would, therefore, be appropriate within the context of the varied heights of surrounding buildings. Taking into account the rear projections of the traditional buildings opposite and the depth of the apartment buildings I consider that the depth and width of the proposal would also reflect the character of the surrounding area. Overall, I consider that the scale and massing of Appeal A would be consistent with that of the surrounding area and would not, therefore, represent over-development of the site.
14. Appeal A would have a timber swept arc to the rear and side of the building which would be situated over the proposed internal amenity area which the Council consider would be an incongruous feature in the street scene. Although the arc would be visible in the approach from the south along Villiers Road, it would be seen in the context of modern school buildings in the foreground and in filtered views through trees on the northern boundary of the school which would limit the visual impact.
15. The proposal would be finished in London Stock Brick with slate tiled roofs and three bay windows with tile hung roofs to the ground floor reflecting the bay windows on the traditional properties opposite. The bays are finished in brick, although the window frames appear to be aluminium. In any event, samples of the materials for the window frames could be required by condition. The windows on the first floor of the front elevation reflect the pattern of windows on the opposite properties, namely two windows of vertical emphasis situated above a bay window. Brick detailing situated below the eaves is also intended to reflect a similar feature below the raised fire walls of the houses opposite. The Council is concerned that the proposed brick colour on the plans and CGI's vary, however, samples of the materials can be secured by a condition.
16. Overall, I consider that the proposal would achieve a balance between traditional and modern design, taking sufficient design cues from traditional properties to integrate the frontage of the building into the street scene whilst also allowing a more modern approach to the rear elevation. I, therefore, find that Appeal A would not cause harm to the character or appearance of the area.
17. Appeal B also proposes to replace the existing building with a two storey detached building with a mansard roof housing a mix of 5 dwellings. It would occupy a similar proportion of the site as Appeal A and would be set back to the same extent. The swept arc of Appeal A is omitted from this scheme as the internal amenity area would be contained on the ground floor of the main structure of the building. The massing, scale and location within the site are similar to Appeal A.

In addition the materials and bay windows to the ground floor are also the similar to Appeal A, although the bay windows would not have tile hung roofs. Thus my conclusions with regards to Appeal A on those matters also apply to Appeal B.

18. At first floor level, there would be 3 larger windows as opposed to 6 smaller windows as in Appeal A, situated above the bay windows. There would also be fewer windows on the first floor of the side elevation facing the car park and no windows at ground floor level. The side elevation facing the school would only have one window at ground floor level. There would be a simple rear façade with only two windows at ground floor level. As with Appeal A, I consider that the proposal contains sufficient design cues on the front elevation to reflect the traditional properties opposite. I, therefore, find that Appeal B would not cause harm to the character or appearance of the area.
19. For the reasons stated, I consider that both Appeal A and Appeal B would not harm the character or appearance of the area. They would not, therefore, be contrary to Policy DM10 of the Council's Core Strategy 2012 which seeks to ensure that development proposals incorporate principles of good design which reflect the character and local distinctiveness of the area. Furthermore, no conflict arises with paragraph 17 of the National Planning Policy Framework (the Framework) which seeks to secure high quality design.

Amenity Space

20. The proposed amenity space would be located partly to the front of the development and also to the rear within the undercroft area. Criterion h of Policy DM10 of the Core Strategy requires development proposals to ensure adequate private and/or communal amenity space and the detailed requirements are set out in the Residential Design Supplementary Planning Guidance (SPG) 2013. The Council acknowledge that the requirement has been exceeded for both Appeal A and Appeal B when taking the total amount of amenity space into account. However, the Council consider that the proposed outdoor amenity space to the front would only be suitable for soft landscaping purposes and that the internal amenity space would not be of an acceptable quality due to its sense of enclosure and the limited natural light that it would receive. It, therefore, considers that the total useable proposed outdoor amenity space would fall short of the Council's requirements. It also states that no details are provided as to how the space would practically work.
21. The appellant clarifies that the internal landscape area will be designed to be a place of seating with wooden benches and a Japanese style inner garden. The inner walls would be white render to reflect daylight. The internal amenity area could also be lit for use in the evening. I consider that the combination of internal and outdoor space would provide sufficient room for the usual range of activities associated with amenity areas including sitting indoors or out, drying washing and children's play. Indeed, the indoor area would provide amenity space for the evenings and in wet weather. Furthermore, a condition requiring details of the design and arrangements for the use of the indoor space could be imposed.
22. There would only be one family sized unit in Appeal A and Appeal B, with the remainder of the proposed flats being studio flats or 1 or 2 bedrooms. In addition, I note that there are two parks in close proximity to the appeal site. The proposal would also meet the London Plan open space requirements. Taking these factors into account, I consider that both Appeal A and Appeal B would make sufficient provision in terms of both quantity and quality for amenity space provision.

23. For the reasons stated above, I conclude that both Appeal A and Appeal B would make sufficient provision for amenity space and provide acceptable living conditions for future occupiers. They would not, therefore, conflict with Policy DM10 of the Core Strategy or the SPD. Furthermore, no conflict would arise with paragraph 17 of the Framework which seeks to ensure a good standard of amenity for future occupants of land and buildings.

Other matters

24. The appeal site is situated within a Controlled Parking Zone and both Appeal A and Appeal B are intended to be car free developments. Policy DM9 of the Core Strategy states to ensure that new development does not contribute to congestion or compromise highway safety the Council will, amongst other things, restrict eligibility for on-street parking permits for residents of new developments located in controlled parking zones.
25. Concerns have been raised by local residents regarding inadequate parking provision, increase in traffic congestion and on-street parking pressure. The site is situated adjacent to a school and also a pedestrian crossing and consequently, there are restrictions on on-street parking along this stretch of road. In these circumstances any over-spill parking onto surrounding streets would be likely to restrict the free-flow of traffic, restrict visibility and cause harm to highway safety. I am, therefore, satisfied that in the absence of on-site parking provision it would be necessary to ensure that the proposals are car-free in order to avoid harm to highway safety.
26. I have, therefore, imposed a condition on both Appeal A and Appeal B requiring that arrangements are made to secure the development as a car-free development in accordance with a detailed scheme of agreement to ensure that the owners of the property, and future owners, would be prevented from applying for a parking permit in relation to the property. For the reasons stated above, I am satisfied that in the particular circumstances of this case that the condition is directly related to the development and necessary to make the development acceptable in planning terms.
27. Concerns have also been raised by local residents that the proposals would cause a loss of light, privacy and overlooking to adjoining properties and the adjacent school and result in noise and disturbance. Numbers 61-65 Villiers Road (Nos 61-65) are separated from the appeal site by a road at a distance of between approximately 19m and 21m. Consequently, due to the distance and level of separation, I do not consider that either Appeal A or Appeal B would result in a loss of light, privacy or overlooking to Nos 61-65.
28. The windows on the south elevation of Appeal A would be narrow, obscured and fixed shut and the windows in the rear elevation would not be at a height or angle to overlook the detached school building behind. No windows are proposed at first floor level in the southern or western elevations of Appeal B which face the school. The windows proposed in the north elevation would look directly onto the school car park and cycle storage facility. Consequently, I am satisfied that neither Appeal A nor Appeal B would result in a loss of privacy or light to the users of the school. Furthermore, noise and disturbance arising from the proposed residential use of the property would be consistent with that experienced in the surrounding residential area and would be no greater than that arising from the adjacent school site.

Conditions

29. The reasoning below relates to both Appeal A and Appeal B unless otherwise stated. In addition to the standard time limit, I have imposed a condition requiring that the developments be carried out in accordance with the approved plans in the interests of certainty. As this condition lists the drawing numbers of the approved plans, I have not attached the Council's suggested condition no 10 in relation to Appeal A.
30. I have also imposed conditions requiring the submission of details of the external finishes, boundary treatment, refuse details, sewer and drainage runs and any external plant or equipment in the interests of character and appearance and to ensure appropriate provision for refuse and waste. A condition requiring a landscaping scheme is also required in the interests of character and appearance.
31. A condition requiring the submission of a construction method statement are necessary to protect the living conditions of adjacent occupiers during the construction phase. I have also imposed a condition requiring the submission of details of secure cycle parking provision to ensure the provision of sustainable means of transport and in the interests of character and appearance.
32. A condition requiring that evidence be submitted to the Council confirming that standards relating to Co2 reductions and internal water usage is necessary to ensure that the development is designed and built to make the most efficient use of resources, reduce its lifecycle impact on the environment and contributes to climate change mitigation and adaptation in accordance with Policy CS1 of the LDF Core Strategy. It also reflects the approach set out in Policy 5.2 the London Plan (2016) which seeks to minimise carbon dioxide emissions and reflects the Written Ministerial Statement which states that the Government expected local planning authorities not to set conditions with requirements above a Code Level 4 equivalent (around 19% improvement on Part L regulations) and Policy 5.15 which seeks to minimise the use of mains water.
33. Conditions requiring that the developments are carried out in accordance with the approved Flood Risk Assessment, including mitigation measures and relating to Sustainable Drainage Systems are necessary to prevent the increased risk of flooding.
34. For the reasons stated above I have imposed a condition requiring the development to be car free and also a condition requiring the redundant vehicular crossing to be reinstated as footway in the interests of highway safety.

Conclusion

35. For the reasons stated and taking all other considerations into account, both Appeal A and Appeal B should be allowed subject to the conditions set out in Schedule A and Schedule B.

Caroline Mulloy

Inspector

Schedule A

Appeal A Ref: APP/Z5630/W/17/3168528

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: B07 11 Site Survey; VR20-1011 Existing Site Plan; VR20-1001 existing plans; VR20-1002 existing elevations; SK5 existing street scene; 16A029/PL01 site and block plans; 16A029/PL02 proposed plans ground and first (rev D); 16A029/PL03 proposed plans second and roof (rev A); 16A029/PL04 (rev C) proposed elevations; 16A029/PL05 (rev B) proposed sections; 16A029/PL06 (rev C) proposed cross sections; SK3 Proposed street scene;
- 3) No development shall take place until details of the following have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details:
 - a) Materials for all external finishes (including their colour and texture);
 - b) boundary treatment (including walls, fences, gates, access and egress pathway along with levels (thereof) and materials;
 - c) refuse storage facilities;
 - d) sewer and drainage runs; and
 - e) any external plant and equipment.
- 4) No development shall commence until a landscaping scheme, including details of the design, management and maintenance of the internal amenity area and the management and maintenance of the living roof shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within the first planting season following completion of the development and the tree planting and landscaping shall thereafter be maintained for five years to the satisfaction of the Local Planning Authority. Any trees or shrubs which die during this period shall be replaced in the first available planting season, and the area shown to the landscaped shall be permanently retained for that purpose.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;

- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) by What's the Flood Risk dated 28th November 2016 (reference WFR-DS-2016-06-Q25 and the following mitigation measures detailed within the FRA:
 - a) Finished floor levels of the ground floor are set no lower than 10.28m above Ordnance Datum (AOD), as stated in the FRA.
 - b) The successful implementation of a void storage area underneath the property that will act to expand the floodplain by a minimum volume of 31.5m³. Detailed designs shall be provided demonstrating this before the condition can be discharged.
 - c) The inclusion of sustainable drainage measures as part of the final design (such as water butts/permeable paving/green roofs as specified in the FRA), in order to limit the surface water discharge of the site to 5 ls-1.
- 7) No development shall take place until details of the implementation, adoption, maintenance and management of a sustainable drainage system have been submitted to and approved in writing by the local planning authority. The system shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.
- 8) No development shall take place until arrangements shall have been made to secure the development as a car-free development in accordance with a detailed scheme of agreement which shall have been approved in writing by the local planning authority. The approved scheme or agreement shall ensure that:
 - i) No occupiers of the approved development shall apply for, obtain or hold an on-street parking permit to park a vehicle on the public highway within the administrative district of the local planning authority (other than a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation); and
 - ii) Any occupiers of the approved development shall surrender any such permit wrongly issued or held.Such scheme or agreement shall be implemented prior to the occupation of the development hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.
- 9) No dwelling shall be occupied until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to commencement of development, for 7

bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.

- 10) Within 3 months of first occupation, evidence must be submitted to the Council confirming that the development hereby permitted has achieved no less than the CO2 reductions (ENE1), internal water usage (WAT1) standards equivalent to Code for Sustainable Homes Level 4. Evidence to demonstrate a 19% reduction compared to 2013 part L regulations and internal water usage rates of 105L/day must be submitted to the Local Planning Authority, unless otherwise agreed in writing.
- 11) Any redundant vehicular crossing must be reinstated as footway (at the applicant's expense) in accordance with the provisions of the Highways Act, 1980 by the Service Director (Planning & Transportation) (Highways), Guildhall II, Kingston upon Thames.

Schedule B
Appeal B Ref: APP/Z5630/W/17/3173718

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: B07 11 Site Survey; VR20-7001 existing site and block plan; VR20-7002 existing plans; VR20-7003 existing elevations; VR20-7004 proposed site and block plan; VR20-7005 proposed ground and first floor plans; VR20-7006 proposed second and roof floor plan; VR20-7007 external amenity area and landscaping; VR20-7008 proposed elevations; VR20-7009 proposed sections; VR20-7010 proposed cross sections; VR20-7011 proposed front and side elevations; VR20-7012 proposed rear and side elevations (2) ; VR20-7013 existing and proposed street scene.
- 3) No development shall take place until details of the following have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.
 - a) Materials for all external finishes (including their colour and texture);
 - b) boundary treatment (including walls, fences, gates, access and egress pathway along with levels (thereof) and materials;
 - c) refuse storage facilities;
 - d) sewer and drainage runs; and
 - e) any external plant and equipment.
- 4) No development shall commence until a landscaping scheme, including details of the design, management and maintenance of the internal amenity area have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within the first planting season following completion of the development and the tree planting and landscaping shall thereafter be maintained for five years to the satisfaction of the Local Planning Authority. Any trees or shrubs which die during this period shall be replaced in the first available planting season, and the area shown to be landscaped shall be permanently retained for that purpose.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;

viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) by What's the Flood Risk dated 13 March 2017 (reference WTFR-DS-2016-06-Q25 revision D) and the following mitigation measures detailed within the FRA:
 - d) Finished floor levels of the ground floor are set no lower than 10.28m above Ordnance Datum (AOD), as stated in the FRA.
 - e) The successful implementation of a void storage area underneath the property that will act to expand the floodplain by a minimum volume of 31.5m³. Detailed designs shall be provided demonstrating this before the condition can be discharged.
 - f) The inclusion of sustainable drainage measures as part of the final design (such as water butts/permeable paving/green roofs as specified in the FRA), in order to limit the surface water discharge of the site to 5 ls-1.
- 7) No development shall take place until details of the implementation, adoption, maintenance and management of a sustainable drainage system have been submitted to and approved in writing by the local planning authority. The system shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.
- 8) No development shall take place until arrangements shall have been made to secure the development as a car-free development in accordance with a detailed scheme of agreement which shall have been approved in writing by the local planning authority. The approved scheme or agreement shall ensure that:
 - i) No occupiers of the approved development shall apply for, obtain or hold an on-street parking permit to park a vehicle on the public highway within the administrative district of the local planning authority (other than a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation); and
 - ii) Any occupiers of the approved development shall surrender any such permit wrongly issued or held.Such scheme or agreement shall be implemented prior to the occupation of the development hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.
- 9) No dwelling shall be occupied until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to commencement of development, for 8 bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.

- 10) Within 3 months of first occupation, evidence must be submitted to the Council confirming that the development hereby permitted has achieved no less than the CO2 reductions (ENE1), internal water usage (WAT1) standards equivalent to Code for Sustainable Homes Level 4. Evidence to demonstrate a 19% reduction compared to 2013 part L regulations and internal water usage rates of 105L/day must be submitted to the Local Planning Authority, unless otherwise agreed in writing.
- 11) Any redundant vehicular crossing must be reinstated as footway (at the applicant's expense) in accordance with the provisions of the Highways Act, 1980 by the Service Director (Planning & Transportation) (Highways), Guildhall II, Kingston upon Thames.