



Appeal Decision

Site visit made on 1 February 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2023

Appeal Ref: APP/X0360/W/22/3298882

Woodside and Wayside House, Shinfield Road, Shinfield, Reading RG2 9BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Michael Lucas of Aspire LPP against the decision of Wokingham Borough Council.
 - The application Ref 211578, dated 5 May 2021, was refused by notice dated 9 December 2021.
 - The development proposed is the erection of a care home (C2 use class) comprising 68 bed spaces with associated parking following demolition of existing dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the planning application process, the development was amended and reduced from a 77 bed care home to a 68 bed development. Consequently, the description of development in the heading above reflects that on the decision notice and appeal form rather than that given on the original planning application form.
3. The application is made in outline but with access, appearance, layout and scale to be considered at this stage. This would leave landscaping as the only matter reserved for subsequent consideration. As such, the submitted planting and landscape proposal drawings¹ are indicative and I have taken into account that there may be alternative ways of landscaping the proposal. Nevertheless, the appellant has referred to the indicative planting plan and landscape proposals in some detail. Accordingly, I have specified in my decision where I have given them particular consideration.
4. The sixth reason for refusal on the Council's decision letter refers to the absence of a mechanism to secure an Employment Skills Plan (ESP). A signed legal agreement under s106 of the Town and Country Planning Act 1990 (s106 agreement) dated 22 November 2022 has been provided that includes a schedule to agree an ESP with the Council or alternatively a financial contribution of £15,000 in lieu of it, to be spent on promoting employment opportunities. The Council had maintained an objection in the absence of such an agreement. However, as they are now signatories to the s106 agreement, the final reason for refusal falls away. Nevertheless, I shall consider the s106 agreement later in this decision.

¹ Drawings 838-L-01 Rev C & 838-L-02 Rev A

Main Issues

5. The main issues are the effect of the proposal on:

- The character and appearance of the area, including impact on trees.
- The living conditions of existing occupiers at Brambles and Barholm having regard to privacy, outlook and noise.
- The living conditions of future residents of the proposal having regard to the provision of outdoor space.
- Biodiversity.
- If harm arises, whether this is outweighed by other material considerations.

Reasons

Character and appearance

6. The eastern side of the section of Shinfield Road within which the appeal site lies is comprised mostly of detached two storey houses set within generous plots. Although the dwellings differ in form, they follow a broadly regular spacing pattern and are similarly set back, facing the road. This ordered settlement pattern allows for large gardens and plentiful spacing in between and in front of buildings. A significant attractive attribute of the area are the many trees and hedgerows evident from the road, with additional tree cover often visible over the tops of roofs as a backdrop.
7. Some similar housing is evident on the western side of the road, but there are also campus style grounds for a school and commercial premises which accommodate much larger buildings. However, these do not have an overt presence when viewed from the road given the distance they are set back and the considerable number of large trees and established hedgerows in the foreground. Overall, the predominant impression is of a spacious, attractive, leafy character where the amount and prominence of tree cover is an important positive characteristic. It is distinctive that despite comprising a built-up area, the number and size of natural features take visual precedence over the receding presence of the built form. It is perhaps unsurprising then that Shinfield Road is recognised as a Green Route by the Council.
8. The appeal site presently comprises two such generous residential plots accommodating detached two storey houses known as Woodside and Wayside House. Their scale and spacing reflect the linear regular settlement pattern described above. Moreover, they are set within mature gardens with considerable established trees and vegetation within and bounding the edges of the site. The submitted tree schedule and plan² indicate that some of these trees are protected, including two oak trees along the frontage and four trees along the rear boundary comprising ash and oak. As such, the appeal site reinforces and makes a positive contribution to the verdant and spacious character and appearance.

² Prepared by David Archer Associates, Arboricultural Implications Assessment and Method Statement, Revision B, Appendices 1 and 2 dated October 2021

9. The proposal would remove the existing houses thereby creating a single larger plot within which a large T shaped 68 bed care home building would be introduced. This would provide accommodation at lower ground, upper ground and first floor levels as well as within the roof space. The form and scale of the building departs from that generally in evidence on the eastern side of Shinfield Road in the following ways. Firstly, the merging of the two domestic plots would create a notably wider frontage. The proposed building would present its principal elevation across the majority of the width of the combined plots giving an elongated impression in comparison to the general rhythm of built form. This would also mean that the gap presently between Wayside House and Woodside would be lost, and the considerable gaps to the properties either side of the appeal site would be eroded.
10. In addition, the building itself would be markedly higher than the adjacent two storey dwellings. It would have a much larger footprint and depth by comparison, resulting in a higher coverage of the plot with built form. In turn, this would necessitate the removal of 21 individual trees as well as some hedgerows and a tree group. Whilst an indicative planting plan has been provided, realistically the scale of the building proposed would limit the extent and type of replacement tree planting that could take place. Hence, although new planting may assist with softening some aspects of the proposal, it would not be equivalent to the overall tree cover lost. Moreover, the limited space between the front portion of the building and the northern boundary would be unlikely to support planting that could entirely shield glimpses of the northern elevation when travelling southwards along Shinfield Road. It would therefore be likely to have a starker appearance relative to the surrounding context.
11. Furthermore, although a crown roof has been employed to maximise accommodation in the roof space whilst providing hipped areas, this would not entirely disguise the significant bulk of built form at an upper level. The combination of height and size would make the built form generally more visible from the surrounding area. Moreover, a large portion of the area in front of the building and closest to the road would be hardstanding to provide the necessary parking and turning for vehicles.
12. Consequently, there would be a dramatic increase in the volume and bulk of built form, a more overt presence of vehicles and the displacement of existing attractive tree cover. Taken in combination these factors would interrupt the underlying grain of the settlement pattern, adversely reduce the overall sense of spaciousness and greenery and introduce built form that would have a harmfully disproportionate presence in the immediate context.
13. On that basis, it would not be sympathetic to local character, including the surrounding built environment and landscape setting, so would fail to accord with paragraph 130c) of the National Planning Policy Framework (the Framework). Moreover, it would conflict with advice in the Wokingham Borough Council, Borough Design Guide, Supplementary Planning Document, June 2012 (SPD) which contains general principles requiring new development to respond positively to its site and local context. Principle R9 states that residential buildings proposed to be taller than prevailing heights in the local area must be of exceptional design quality. The evidence before me does not show that would be the case for the proposal.

14. I acknowledge that some design measures have been incorporated that would reduce the extent of harm. This includes that the building would be set back from and would face the road, and therefore, would follow the established building line. The removal of one of the access points onto Shinfield Road would allow for some additional planting along the frontage. The building itself would have some articulation due to the use of gables, side wings, varying roof ridge heights and use of materials which to an extent would break up the mass of the structure. However, ultimately, they would be unsuccessful in addressing my fundamental concerns regarding the disproportionate scale of the proposal in this context.
15. Moreover, I accept that the appellant has shown that the most important and protected trees would be retained along the frontage and rear boundaries of the site through a combination of the building placement and proposed root protection systems. The retention of mature trees would assist in generally screening or filtering views of the proposal and those along the frontage would continue to contribute towards the street scene. It would also be reasonable to replace the heavily pollarded group of trees along the middle section of the northern boundary with other trees. The indicative planting plan shows trees that could be planted in the mid to rear portion of the northern boundary, although these would take some time to establish. Even so, the likely landscaping would not fully screen the proposal, especially when not in full leaf and would be insufficient to overcome the degree of harm I have identified.
16. The appellant points out that the economies of scale dictate that care homes require a larger building, and that the site lies within a major development location in the development plan where increased levels of development are to be expected. Be that as it may, that does not mean that local and national design planning policies do not apply. Neither does the absence of designated heritage assets signal that the area does not possess qualities worthy of protection or enhancement.
17. My attention is drawn to the allocation of back garden land for housing development as well as nearby examples of back land development³. Nevertheless, based on my observations and the limited details provided, none of the highlighted examples involve a building similar in footprint and height to the one before me. As such, they are not shown to be directly comparable and therefore, attract little weight.
18. Accordingly, I find that the proposal would have a harmful impact on the character and appearance of the area contrary to policies CP1 and CP3 of the Wokingham Borough Core Strategy, January 2010 (CS) and policies CC03, TB06 and TB21 of the Wokingham Borough Managing Development Delivery Local Plan, February 2014 (MDD). In combination, and amongst other matters, these policies require development to maintain or enhance the high quality of the environment, be of an appropriate scale and protect or enhance the landscape and green infrastructure. In particular, policy TB06 which relates to development on residential gardens requires a positive contribution to be made to the character of the area in terms of, amongst other things, the relationship of the existing built form and spaces around buildings within the surrounding area, the built-up coverage of each plot, rhythm of plot frontages, parking areas, and compatibility with the general building height within the surrounding area.

³ Appendix 2, Appellant's Grounds of Appeal

Living conditions of existing occupiers

19. Policy CP3 of the CS includes a general principle that development should achieve a high quality of design without detriment to the amenities of adjoining land users and includes reference to the quality of life of occupiers. The appeal site is flanked by domestic properties with Barholm to the north and Brambles to the south. The proposal would be detrimental to the quality of life of the occupants of those properties for the following reasons.
20. The proximity of the front portion of the development to the northern boundary and limited opportunities for landscaping along the corresponding section of the northern boundary would mean that the northern flank elevation would have an obvious looming presence from windows in the rear of Barholm. Although the appellant refers to the front section of the building providing a degree of screening between windows on the rear wing and habitable rooms at Barholm, this overlooks the impact of the front section itself on the outlook for those occupants.
21. In addition, the front section would also have a commanding position relative to the rear terrace area of Barholm. Even if obscure glazing were employed in the upper windows of this section of the care home to mitigate direct overlooking, the impression given to those using the terrace from the number, height and orientation of those windows would be that they are overlooked. Hence, the effect would still be unreasonably intrusive.
22. The effect would be further compounded by the depth of the rear 'stem' part of the proposed building extending a distance broadly equivalent to half the length of the rear garden of Barholm. Even taking account of the set in distance from the boundary as shown on the proposed block plan⁴, this would not be sufficient to mitigate the cumulative impact of the following factors.
23. Firstly, the orientation of windows in the rear section would directly face towards the rear garden of Barholm. Secondly, the number of windows and rooflights at upper levels would be considerable, and height is an important factor in these circumstances. Even if direct views were not possible from the roof lights serving the second-floor communal space of the care home, their presence at an elevated position would increase the perception of overlooking within the adjacent property's garden area. Thirdly, the majority of windows would provide light to principal rooms where given the nature of the use, the occupants are likely to spend prolonged periods of time, and most rooms are likely to be occupied concurrently.
24. Furthermore, although replacement planting is shown along the northern boundary on the indicative planting plan and could provide some screening, this does not clearly show that it would attain a sufficient height to be effective in preventing intrusive overlooking from windows on the first floor. Even if it could reduce harm, it would be likely to take a considerable time for such planting to become established.
25. Overall, these factors would result in an unacceptable degree of overlooking to the rear garden of Barholm where the occupiers would otherwise reasonably anticipate a much higher degree of privacy. Moreover, the presence of this scale of built form relative to the outlook from rear windows and parts of the

⁴ Appendix 2, Appellant's Grounds of Appeal

garden would have an oppressive effect on the occupant's ability to enjoy their home.

26. A harmful reduction in privacy would also result to the rear garden of Brambles owing to fenestration in the south elevation of the 'stem'. I acknowledge that this would be to a lesser degree given that the separation distance would be greater and the retention of existing boundary planting, but the degree of screening would vary seasonally. The presence of the proposed building would still be likely to be read through the trees from the garden of Brambles, particularly the upper levels.
27. Moreover, the south side elevation includes balconies at the upper ground floor and first floor and shows a glazed gable feature. The balconies would allow space for the intended residents to sit outside thereby resulting in a more direct and obvious presence at an elevated height relative to the adjacent garden. The presence and activity of people using the balconies would result in a sense of encroachment for the neighbouring residents at Brambles when using their rear garden, which would diminish the enjoyment of their property. These factors combined would unacceptably harm the living conditions of the occupants of Brambles.
28. In support of the proposal the appellant points out that a condition could secure obscure glazing in the side facing windows in the upper parts of the front section of the building. I accept that this would avoid direct overlooking from those windows into habitable rooms at the flanking dwellings. However, this would not address, nor outweigh, the adverse impacts outlined above.
29. It is further highlighted that the separation distances proposed would not fail any of the guidance distances in the SPD. Be that as it may, the minimum distances suggested generally refer to distances between back to back and back to flank elevations, which lend themselves more to conventional residential arrangements. It does not provide specific guidance for cases such as this where the depth of the proposed building would be significantly greater than the properties either side. As such, the advice contained within the SPD in this regard would not lead me to find otherwise.
30. The Council also raises concerns that noise emanating from the proposed development would be harmful to the living conditions of the adjacent occupiers. However, an acoustic report⁵ has been submitted that surveys existing noise levels and considers the likely noise arising from the use of external areas, deliveries, vehicular noise and plant. It concludes that levels of noise would not cause an adverse impact on future occupiers and no mitigation measures are required to achieve suitable internal and external noise levels. Whilst there would be more intensive use of the rear garden areas due to the increased numbers of occupants in comparison with the present dwellings, given the likely nature of the intended residential occupants, there is little reason to suppose that this would be noisily disruptive to adjacent residents using their rear gardens. As such, I have seen little substantive evidence to undermine the comprehensive findings in the acoustic report and am satisfied that the noise impact of the development has been adequately assessed and found to have no adverse impact. In line with policy CC06 of the MDD, in these circumstances it states that noise will not be a material consideration.

⁵ Prepared by Sharps Redmore dated 5 May 2022

31. Nevertheless, overall, for the reasons outlined the proposal would fail to achieve a high standard of amenity for existing users as referred to in paragraph 130 f) of the Framework.
32. Accordingly, I find that the proposal would result in unacceptable harm to the living conditions of the residents at Barholm and Brambles due to a reduction in privacy for both and an oppressive effect on outlook at Barholm. Consequently, the proposal would be contrary to the general criteria set out in policy CP3 of the CS.
33. As I do not find that harm would result due to noise it follows that there would be no conflict with policy CP1 of the CS or CC06 of the MDD in this regard.

Living conditions of future residents

34. The proposal would provide a communal garden area to the rear of the building for the future residents of the care home. In addition to areas of new planting, the indicative planting plan and landscape proposals show this would include a pond and areas for sitting out, a pathway and terrace close to the building, with existing trees and wildflower meadow deeper to the rear of the site. In addition, some individual external areas for sitting out are shown for those residents on the ground floor.
35. There is no dispute that sufficient space is provided, rather the Council is concerned regarding the usability of the space due to the slope of the land and the presence of retained trees. Given that the intended occupants of the care home would be the frail elderly, this would be likely to have a direct impact on the way the external space would be utilised. Whilst some residents may be able to participate in light gardening activity, it is more likely that the principal enjoyment of the space would be derived from engaging with nature and social activity. This is reinforced by the letter⁶ relaying the experience of a care home operator who explains the importance of a landscaped outlook to residents. Moreover, as the mobility of residents is often limited, social or therapeutic activity is generally concentrated in areas closest to the building.
36. On that basis, the presence of wildflowers and trees is likely to attract wildlife and reflect seasonal changes that will provide visual interest and a natural pleasant outlook from within the building and garden. The garden would be able to provide areas of sunlight and shade. The SPD contains advice regarding amenity space, albeit that it lends itself better to more conventional housing and flats rather than care homes. However, in broad terms, the proposal would align with the advice.
37. I have had regard to the research article provided by the Council⁷ suggesting that access to outdoor space predicts depressive symptoms in older people living in care homes. However, the research would be more pertinent to how future residents' access to outside space is managed, rather than the nature of the space provided.
38. Consequently, I am satisfied that although detailed landscaping is reserved, there is sufficient evidence to show that appropriate outdoor space to cater for future residents could be provided such that their living conditions would not be

⁶ Appendix 3, Appellant's Grounds of Appeal

⁷ Appendix 12, Council's Statement

compromised. Therefore, in this regard I find no conflict with the general principles for development set out in policy CP3 of the CS.

Biodiversity

39. Policy TB23 of the MDD provides that planning permission will only be granted where amongst other things, development provides opportunities to incorporate new biodiversity features or enhances existing ones. This broadly aligns with paragraph 174d) of the Framework which stipulates that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.
40. The appellant has provided a number of ecological appraisals, surveys and reports to show mitigation strategies for protected species. In addition, a biodiversity net gain assessment⁸ has been provided. It indicates that there would be a net gain in biodiversity units of 22.04% and a net gain of linear units of 4.17%. This is predicated on the site design retaining trees, particularly to the rear of the site, and providing an understorey planting of scrub and wildflower meadows. As such, it relies notably on the indicative planting proposals.
41. The Council raises concerns regarding the execution of the DEFRA metric methodology and considers that the post development proposals are overly optimistic as to the type and condition of habitat that could be created. Nevertheless, lists of indicative wildflower and grass species that would be tolerant of the likely shady conditions are included to supplement the conclusion that a net gain in biodiversity could be achieved. The detailed landscaping would be examined in further detail at the reserved matters stage, but a biodiversity management plan secured by condition at the outline stage could inform those details.
42. Although the Council considers it likely that there would be a net loss of habitat biodiversity, no alternative calculation has been provided to illustrate or quantify such a loss.
43. Overall, based on the balance of evidence before me, I am reasonably satisfied that the information provided at the outline stage is sufficient to meet with the requirements of policy TB23 of the MDD to provide opportunities to incorporate new biodiversity features and enhance existing ones.

Other considerations

Planning obligation

44. Policy TB12 of the MDD requires proposals for major development to show how opportunities for training, apprenticeship, or other vocational initiatives to develop local employability skills required by developers, contractors or end users of the proposal will be provided in an ESP. The supporting text explains that the Council may use section 106 agreements or planning conditions to incorporate the ESP.
45. A completed s106 agreement has been provided which would ensure the agreement of an ESP or a financial contribution in lieu of it, which the Council would use to promote employment opportunities within the Borough. The

⁸ Prepared by MKA Ecology Ltd

Council is a signatory to the s106 agreement and on that basis, does not contest its contents.

46. I am satisfied that the obligation meets the statutory tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended). These are reflected in paragraph 57 of the Framework such that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. I shall take account of the beneficial effect of the planning obligation in the overall planning balance.

Level of need

47. It is intended that the proposal would cater for the elderly requiring care thereby providing specialist accommodation for older people. Paragraph 62 of the Framework identifies older people as a group in the community whereby the size, type and tenure of housing should be assessed and reflected in planning policies. Planning Practice Guidance (PPG) provides further broad guidance on identifying and addressing the housing needs of this group.
48. However, this is not an easy task given the complex and diverse accommodation and related care needs of older people. The PPG⁹ lists some of the different ways that specialist accommodation may be provided ranging from age restricted market housing, through extra care units to residential care homes where there is a high degree of care giving. Moreover, depending on the availability of support services, adaptations and assistive technologies, many older people could continue to live in their existing homes within more general housing provision.
49. This complexity is reinforced by the Council's Local Housing Needs Assessment 2019 (LHNA) which outlines the appropriateness of various methodologies used to project future housing needs of older people. At paragraph 8.39 it states that within the Council area it is unclear whether older people will aspire to specialist housing in the future, stating that demand for some types are already experiencing low demand, and other, newer types of provision may appear to meet changing aspirations in the market.
50. The modelled demand for older persons housing in the LHNA refers primarily to sheltered housing and extra care housing and notes that the Council's records indicate there is no backlog currently for council extra care rented schemes. There is limited explicit mention of class C2 care home provision, but the document does not suggest a significant shortfall.
51. The appellant has provided a needs assessment¹⁰ relating to care home provision and asserts that unmet need is expected to rise from 562 beds in 2023 to 1,392 beds in 2031¹¹. However, the catchment area used for the needs analysis extends outside of the administrative area for Wokingham Borough Council and so does not necessarily correlate with the scope of the LHNA.
52. Together with the information as to the variable vacancy rates of nearby C2 class care facilities, the evidence and overall picture in relation to the level of need for specialist older person accommodation is complicated. As such,

⁹ Paragraph 010 Reference ID: 63-010-20190326

¹⁰ Prepared by Christie and Co

¹¹ Paragraph 5.6 Appellant's Grounds of Appeal

quantifying the level of need in relation to care homes has not been clearly pinpointed by either party. Nevertheless, there is a consensus that there is a foreseeable large increase in older people. The CS and MDD state¹² that the number of people over 85 years old will increase by 100% between 2006 and 2026, and the LHNA¹³ refers to population predictions between 2018 and 2036 with an increase of 9,039 persons aged 75+. Based on this factor alone it is highly likely that there will be a corresponding need for dedicated housing that will include residential care home provision. This is an important factor that weighs in favour of the proposal, which I shall take account of in the planning balance.

Planning balance and conclusion

53. I have found that the proposal would conflict with the policies of the development plan taken as a whole owing to the harm identified relating to the first and second main issues.
54. Although policies in the development plan support the principle of the development in this location, the appellant considers they are out of date as they neither quantify the need nor make specific allocations for older persons accommodation development. On that basis it is put to me that the presumption in favour of sustainable development in paragraph 11d) ii) of the Framework (often referred to as the 'tilted balance') should apply in this case. This states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
55. However, it is not necessary for me to conclude on this point given that both parties agree that the Council cannot demonstrate a five year supply of deliverable housing sites. The Council suggests that the figure lies between 4.35-4.84 years supply, indicating a moderate to small shortfall. Footnote 8 to paragraph 11 of the Framework confirms in these circumstances the tilted balance is engaged in any event and policies which are most important for determining the application are deemed out of date.
56. The principal benefit of the proposal would be the additional and specialist accommodation provided by the 68 bed care home in an accessible location. This would increase the overall provision and choice of such accommodation in the local area against the backdrop of a considerably increasing need. It is also likely to facilitate the release of some existing general housing within the borough. Moreover, policy TB09 of the MDD is supportive of the principle of such specialist accommodation in this location. There is further general encouragement found in policy CP2 of the CS for development to meet the needs of an ageing population. In addition, there would be economic benefits arising from the development during the construction period as well as employment associated with the care home, which is supplemented by the ESP. Cumulatively, I attribute significant positive weight to these benefits.
57. Balanced against that is the permanent harm that would result to the character and appearance of the area and the living conditions of existing residents. The Framework stipulates that good design is a key aspect of sustainable development and furthermore, the creation of high quality buildings and places

¹² Paragraphs 2.37 and 3.41 respectively

¹³ Paragraph 8.43

is fundamental to what the planning and development process should achieve¹⁴. Therefore, the conflict with design policies referred to above in the CS and MDD which are consistent with the Framework in this regard, attracts full weight.

58. In addition, the Framework states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users¹⁵. In relation to the occupiers of neighbouring properties, the proposal falls short of this standard and also conflicts with policy CP3 of the CS, which in this respect attracts full weight.
59. Overall, I find that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
60. I have had due regard to the Public Sector Equality Duty set out under s149 of the Equality Act 2010, but the harm that would be caused by the proposed care home outweighs its benefits in terms of eliminating discrimination against persons with the protected characteristics of age and/or disability, advancing equality of opportunity for those persons and fostering good relations between them and others. I conclude that it is proportionate and necessary to dismiss the appeal to prevent the harm identified.
61. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹⁶. There are no other considerations, including the provisions of the Framework, which outweigh this finding.
62. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹⁴ Paragraph 126 NPPF

¹⁵ Paragraph 130 f) NPPF

¹⁶ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.