Examination-in-Public Topic Paper

Main Matter 1:

Procedural Requirements
1.0 Introduction

1.1 Section 4 of the Inspector’s Guidance Notes (Document ED3) states:

“The Inspector will need to be assured that the Councils can confirm:

(i) that the submitted document has been prepared in accordance with the statutory procedures under Section 20 (5) (a) of the 2004 Act;

(ii) that the submitted document has been prepared in compliance with the 2004 Regulations (as amended), specifically regarding the publication of prescribed documents, their availability at the Councils’ principal offices and websites, the placing of local advertisements and notification of the DPD bodies;

(iii) that the Councils are not aware of any fundamental procedural shortcomings concerning the submitted document.

1.2 The Councils are asked to prepare a short document confirming this and place it on the Examination website not later than 27 May 2011. Included in this document should be the way the Councils have dealt with the Planning for Growth Ministerial Statement and the revision to the waste hierarchy, both of which have been issued since the Regulation 27 document was published. At the opening of the hearing sessions the Councils will be asked if there is any change to this position.”

1.3 The purpose of this paper is to answer the above questions.

2.0 Submitted Document has been prepared in accordance with Section 20 (5) (a) of the 2004 Act

2.1 Section 20 (5) (a) of SLWP13.1 states: “The purpose of an independent examination is to determine in respect of the development plan document – whether it satisfies the requirements of section 19 and 24 (1), regulations under section 17 (7) and any regulations under section 36 in relation to the preparation of development plan documents.” The following two paragraphs show how the requirements within sections 19 and 24 (1) of the 2004 Act (as amended by the 2008 Planning Act) have been met.

2.2 Section 19

(1) Development plan documents must be prepared in accordance with the Local Development Scheme

The South London Waste Plan has been prepared broadly in accordance with the Local Development Schemes (LDSs) of each borough (SLWP8.1-8.8). The South London Waste Plan is clearly identifiable from its listing and description in each borough’s LDS. The timetable for submission has either slipped by two months from date stated in the LDS or can be assumed to be on schedule from information given in the latest AMR:

● The Croydon LDS 2010 (Page 23 of SLWP8.2) sets a submission date of February 2011.

● The Kingston LDS 2009 (Page 17 of SLWP8.4) sets a submission date of July 2010. However, the Kingston AMR 2010 (Page 16 of SLWP9.6) reports publication to take place in January/February 2011.

● The Merton LDS 2011 (Figure 4 of SLWP8.7) sets a submission date of February 2011.

● The Sutton LDS 2007 (Page 14 of SLWP8.8) does not set a timetable. However, the Sutton AMR 2010 (Page 9 of SLWP9.12) reports publication to take place in January/February 2011.

On advice from PINS, the boroughs have placed a revised timetable for the preparation of the South London Waste Plan on each of the borough’s websites.
Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. The boroughs consider that the South London Waste Plan includes policies that contribute to the mitigation of, and adaptation to, climate change, particularly policies WP1, WP6, WP7 and WP8.

In preparing a development plan document or any other local development document the local planning authority must have regard to –

(a) national policies and advice contained in guidance issued by the Secretary of State; The boroughs consider the South London Waste Plan has had regard to national policies and advice.

(b) the regional strategy for the region in which the area of the authority is situated, if the area is outside Greater London; Not applicable.

(c) the spatial development strategy if the authority are a London borough or if any part of the authority’s area adjoins Greater London; The boroughs consider the South London Waste Plan has had regard to the spatial development strategy.

(d) the regional strategy for any region which adjoins the area of the authority; The South London Waste Plan has had regard to the Surrey Waste Plan 2008, with amendments 2009 (SLWP20.6). Since the Surrey Waste Plan is consistent with the regional strategy for the south-east, the Boroughs consider the South London Waste Plan has, by extension, had regard to the regional strategy for the south-east.

(e) the Wales Spatial Plan if any part of the authority’s area adjoins Wales: Not applicable.

(f) the sustainable community strategy prepared by the authority; The boroughs consider that the South London Waste Plan has had regard to the four Sustainable Community Strategies within the Waste Plan area. In particular, references to waste on: Page 58 of the Croydon’s Draft Community Strategy (SLWP7.2), Objective 1 of the Kingston Plan (SLWP7.3), Page 33 of the Merton Community Plan (SLWP7.4) and Page 32 of the Sutton Plan (SLWP7.5).

(g) the sustainable community strategy for any other authority whose area comprises any part of the area of the local planning authority; Not applicable.

(h) any other local development document which has been adopted by the authority; The boroughs consider the South London Waste Plan has regard to the Sutton Core Strategy 2009 (SLWP19.1), especially in respect of policies PMP9 and BP8, and it has also has had regard to Paragraph 11.4 of the K+20 Kingston Area Action Plan 2008 (SLWP17.13).

(i) the resources likely to be available for implementing the proposals in the document;
The boroughs consider they have had regard to the resources likely to be required for implementing the proposals. The delivery vehicles for the South London Waste Plan are to be the South London Waste Partnership and the boroughs’ Development Management teams. In order to assist with delivery, the boroughs have prepared a monitoring framework to collate and analyse waste management permissions and applications across the plan area and are currently producing a pre-application protocol for waste management applications which is to apply across the four boroughs.

(j) such other matters as the Secretary of State prescribes.
Not applicable.

(3) In preparing the local development documents (other than the statement of community involvement) the authority must also comply with their statement of community involvement.
The boroughs consider they have complied with the most stringent requirements of the Statements of Community Involvement (SCIs) and, in some instances, exceeded the requirements of all their SCIs. The details of how the South London Waste Plan consultation arrangements have complied with the SCIs are shown on Pages 39 and 40 of SLWP1.4 (for the Stage 1 Issues and Options consultation and Stages 2 and 2a Preferred Options consultations) and on Page 36 of SLWP1.5 (for the Stage 3 Publication period).

(4) But subsection (3) does not apply at any time before the authority has adopted their statement of community involvement.
Not applicable.

(5) The local planning authority must also – (a) carry out an appraisal of the proposals in each development plan document; (b) prepare a report of the findings of the appraisal. A Sustainability Appraisal Scoping Report for the South London Waste Plan was prepared for consultation in June 2008 (SLWP4.1). A Sustainability Appraisal Report on the Potential Sites and Policies Consultation Document was prepared in June 2009 for the Stage 2 consultation (SLWP4.2). A Sustainability Appraisal Report for the Additional Sites Consultation Document was prepared in February 2010 for the Stage 2a consultation (SLWP4.3). A Sustainability Appraisal Report on the Proposed Submission Document was published in January 2011 for the Stage 3 publication (SLWP1.3).

(6) The Secretary of State may by regulations make provision – (a) as to any further documents which must be prepared by the authority in connection with the preparation of a local development document; (b) as to the form and content of such documents.
Not applicable – the boroughs are not aware of further documents.

(7) The community strategy is the strategy prepared by an authority under section 4 of the Local Government Act 200 (c. 22).
Please refer to documents SLWP7.1-7.5 for details of the Sustainable Community Strategies.

2.3 Section 24 (1)
The local development documents must be in general conformity with – the spatial development strategy (if the local planning authority are a London borough).
The Mayor of London has stated (Page 4 of SLWP1.6): “The policies throughout the document are, on the whole, consistent with the London Plan. There are, however,
matters... which could result in significant harm to the implementation of the London Plan and therefore not in general conformity with the London Plan unless appropriately resolved.” The boroughs and the Greater London Authority have sought and continuing to seek to resolve the few outstanding issues of non-conformity.

3.0 Submitted Document has been prepared in compliance with SI2008/1371, also known as the 2004 Regulations as amended

3.1 Regulation 25
(1) A local planning authority must—
(a) notify each of the bodies specified in paragraph (2) of the subject of a DPD which they propose to prepare; and
(b) invite each of those bodies to make representations to them about what a DPD with that subject ought to contain.

(2) The bodies referred to in paragraph (1) are—
(a) such of the specific consultation bodies as the local planning authority consider may have an interest in the subject of the proposed DPD; and
(b) such of the general consultation bodies as the local planning authority consider appropriate.

(3) If a local planning authority propose to prepare a DPD, they must also consider whether it is appropriate to invite representations from persons who are resident or carrying on business in their area.

(4) If a local planning authority decide that it is appropriate to invite representations under paragraph (3) they must make arrangements for the purposes of inviting representations from such persons of the descriptions in paragraph (3) as they think appropriate.

(5) In preparing the DPD, the local planning authority must take into account any representations made to them in response to invitations under paragraph (1) or (4).

3.2 SLWP1.4 Pages 7-8 set out which of the specific consultees named in regulations and the boroughs’ SCIs were notified as part of the Stage 2 and Stage 2a consultations. SLWP1.4 Page 8 also notes how one specific consultee (the Parish Council of Chelsham and Farleigh) was inadvertently omitted from consultation and how this oversight was rectified subsequently. SLWP1.4 Page 9-33 sets out the general consultees which were consulted as part of the Stage 2 and Stage 2a consultations. In addition, all the consultees on the four boroughs’ consultee databases were notified of the consultation and direct mail was used to notify all those businesses and residents on or surrounding potential sites. The other consultation methods employed at these stages are listed on Pages 39 and 40 of SLWP1.4.

3.3 Documents were placed in all of the boroughs’ principal council offices and in libraries across the South London Waste Plan area. All of the boroughs have well tried and tested processes for the delivery of documents to council offices and libraries and their subsequent display.

3.4 The publication of documents on the internet for the Stage 1, Stage 2 and Stage 2a consultations took place on all four of the boroughs’ websites. A friendly URL (/wasteplan) was created to simplify access to each of the South London Waste Plan websites. The websites appear as first choice on a Google search when South London Waste Plan is
searched for and the websites also appear as first choice when each of borough’s name followed by waste plan is searched for. In addition to the individual borough websites, the documents were also able to be viewed on an on-line consultation portal powered by Limehouse Software.

3.5 Advertisements were placed in the following local newspapers for the Stage 1, Stage 2 and Stage 2a consultations: the Croydon Guardian, the Surrey Comet, the Wimbledon Guardian, the Mitcham and Morden Guardian (which is the sister paper of the Wimbledon Guardian) and the Sutton Guardian. Copies of the advertisements placed can be viewed in Appendix 3 of SLWP1.4).

3.6 The representations were considered in the following manner. Initial officer comments were assigned to each representation and then further consideration was given to responses. Section 4 of SLWP1.4 comprises a summary of the main issues raised and how they were addressed from the consultations at Stage 1, Stage 2 and Stage 2a.

3.7 Regulation 27
Before submitting a DPD to the Secretary of State under section 20, the local planning authority must—
(a) make a copy of each of the proposed submission documents and a statement of the representations procedure available for inspection during normal office hours—
(i) at their principal office, and
(ii) at such other places within their area as they consider appropriate;

(b) publish on their website—
(i) the proposed submission documents,
(ii) a statement of the representations procedure, and
(iii) a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected;

(c) send to each of the specific consultation bodies invited to make representations under regulation 25(1) or 26(1) for the purposes of the DPD—
(i) a copy of each of the proposed submission documents, and
(ii) a statement of the representations procedure;

(d) send to each of the general consultation bodies invited to make representations under regulation 25(1) or regulation 26(1) for the purposes of the DPD—
(i) a statement of the representations procedure, and
(ii) a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected; and

(e) give by local advertisement notice which sets out—
(i) a statement of the representations procedure, and
(ii) a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected.

3.8 As with previous public involvement, the relevant documents and statements were placed in the principal council offices and libraries across the four boroughs. In addition, the documents and statements were published on the websites of the four boroughs and were also available on the on-line consultation portal.
3.9 The specific consultation bodies were generally sent an email or letter containing a link to a South London Waste Plan website (rather than a copy of the Proposed Submission document) and a Statement of Representations Procedure. The rationale for not sending a document to all the specific consultees was that one borough, Sutton, had defined a lengthy list of statutory consultees in its SCI (SLWP10.4) and the printing and postage of documents would have proved costly. However, those specific consultees who requested hard copies received documents in paper form and those specific consultees with a significant interest in waste management matters, such as the Environment Agency, Natural England and the GLA also received hard copies. Pages 7 and 8 of SLWP1.5 set out the specific consultees who were consulted.

3.10 The general consultation bodies were sent an email or letter containing a link to a South London Waste Plan website and a Statement of Representations Procedure. Pages 8 to 33 of SLWP1.5 list the general consultees who were notified. In addition, respondents to previous stages of consultation were also notified as well as any occupier of a site or area identified in the Proposed Submission version of the South London Waste Plan.

3.11 Advertisements were placed in the following local newspapers for publication period: the Croydon Guardian, the Surrey Comet, the Wimbledon Guardian, the Mitcham and Morden Guardian (which is the sister paper of the Wimbledon Guardian) and the Sutton Guardian. Copies of the advertisements placed can be viewed in Appendix 3 of SLWP1.5.

4.0 Summary of Procedural Arrangements

4.1 The boroughs consider that there are no fundamental procedural shortcomings concerning the submitted document in respect of the requirements for production contained within the 2004 Planning and Compulsory Purchase Act and SI2008/1371.

4.2 The document has been prepared in accordance with four boroughs’ LDS. The document is clearly identifiable from its listings and description in each borough’s LDS. The timescales have been met approximately and the borough’s Annual Monitoring Reports and websites have updated the LDS where appropriate.

4.3 The boroughs consider the South London Waste Plan is closely integrated with each borough’s Sustainable Community Strategy.

4.4 The boroughs consider the South London Waste Plan meets the most rigorous requirements of the four boroughs’ SCIs and, in some instances, the consultations have exceeded the requirements of the SCIs, such as in the length of consultation periods.

4.5 The South London Waste Plan has been subject to Sustainability Appraisals throughout its stages of development and a final report of the findings of the Sustainability Appraisal has been produced.

4.6 Following a request for a Letter of General Conformity to the Mayor of London, the Mayor has stated that the Proposed Submission version of the South London Waste Plan contains three matters which are not in general conformity with the London Plan. However, the boroughs have sought and are seeking to resolve these matters.
4.7 The boroughs consider that there are no fundamental procedural shortcomings with regard to the consultation arrangements, including with regard to the making documents available at council offices and libraries, the placing of local advertisements and the notification of DPD bodies.

4.8 The South London Waste Plan contains a list of superseded policies in Table 4.3 (Page 29).

4.9 The boroughs consider the South London Waste Plan is in conformity with the Sutton Core Strategy (adopted 2009) and the emerging Core Strategies of Croydon, Kingston and Merton.

5.0 The South London Waste Plan and its Consistency with the Planning for Growth Ministerial Statement

5.1 On 23 March 2011, the Rt Hon Greg Clark MP, the Minister of State for Decentralisation, issued a ministerial statement on how the planning system had a key role to play in the Chancellor of the Exchequer’s plans for the British economy, called Planning for Growth (SLWP20.4). Since the Proposed Submission version of the South London Waste Plan was produced prior to this announcement, the boroughs have reviewed the Proposed Submission version to ascertain whether there is any aspect of the South London Waste Plan that is not consistent with the ministerial statement. The boroughs have concluded that the South London Waste Plan is not only consistent with the Planning for Growth ministerial statement, but it will deliver many of the statement’s aspirations.

5.2 The ministerial statement urges priority to be given to sustainable economic development and jobs, with a strong presumption in favour of sustainable development, and makes a number of more specific requirements of local planning authorities. Table 5.1 sets out the ministerial statement’s specific requirements for local planning authorities and how the boroughs consider the South London Waste Plan meets these requirements:

<table>
<thead>
<tr>
<th>Ministerial Statement Requirements</th>
<th>Borough Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Planning Authorities should...</td>
<td>The South London Waste Plan...</td>
</tr>
<tr>
<td>- press ahead with preparing development plans and should use that opportunity to be proactive in driving and supporting the growth that this country needs</td>
<td>- has been prepared with regard to its original timetable and has been progressed even though the production of the replacement London Plan was delayed. The Plan is proactive in safeguarding sites and identifying areas which may have sites suitable for development (Policies WP3 and WP4)</td>
</tr>
<tr>
<td>- make every effort to identify and meet the housing, business and other development needs of their areas and respond positively to wider opportunities for growth, taking full</td>
<td>- seeks not only to meet the apportionment figures set out in the London Plan but will strive to meet net self-sufficiency (Policy WP1), in line with the aspirations of the</td>
</tr>
</tbody>
</table>
account of relevant economic signals such as land prices | London Plan. The plan has fully taken into account the deliverability likelihood for waste management development within industrial areas which often is a function of land prices (Policy WP4)

- work together to ensure needs and opportunities beyond (or cannot be met within) their own boundaries are identified and accommodated in a sustainable way, such as housing market requirements that cover a number of areas and the strategic infrastructure necessary to support growth | - is an example of collaboration between four boroughs to meet needs that may not be able to be addressed individually. The plan deals with an area of strategic infrastructure which is necessary to promote growth in other sectors as well as being an employment generator itself

- consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession | - has had full regard to current national planning policy in particular PPS10 and meets the objectives of PPS4 in that the plan is intended to provide the conditions for employment opportunities, generating wealth and producing or generating an economic output or product

- take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing | - has identified areas which may have sites suitable for waste management far in excess of the requirement and so includes a flexible and responsive supply of land (Policy WP1 and WP4)

- consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity) | - has considered the potential economic, environmental and social benefits of waste management development such as environmental enhancement and sustainable energy development (Policies WP7 and WP8)

- be sensitive to the fact that local economies are subject to change and so take a positive approach to development where new economic data suggest that prior assessments of needs are no longer up-to-date | - has included a windfall policy (Policy WP5) so as to ensure that the plan can be flexible and respond to change across the lifetime of the plan

- ensure that they do not impose unnecessary | - has sought to balance the requirements of
burdens on development the waste management industry with appropriate safeguards for neighbouring land uses. The boroughs consider Policy WP7 includes fair and reasonable criteria to satisfy the concerns of neighbouring land uses and but it does not stifle appropriate sustainable development. The boroughs are also developing a pre-application protocol to provide a consistency of approach to waste management applications and to ensure pre-application discussions are not onerous on potential developers.

6.0 The South London Waste Plan and its Consistency with the Changes to the Waste Hierarchy

6.1 On 31 March 2011, the Chief Planner, Steve Quartermain, wrote to Chief Planning Officers informing them of changes to PPS10 and in particular, a revision to the Waste Hierarchy (SLWP20.5). The revised hierarchy is set out in Figure 6.1:

Figure 6.1: The Revised Waste Hierarchy

6.2 This change to the Waste Hierarchy occurred after the boroughs had published the Proposed Submission version of the South London Waste Plan. In order to incorporate this change to national guidance, the boroughs are proposing a number of amendments to the Proposed Submission version of the South London Waste Plan and the Sustainability Appraisal and these are set out in Schedule of Proposed Minor Changes to the South London Waste Plan (SLWP1.11) and the Schedule of Changes to the South London Waste Plan – Sustainability Appraisal (SLWP1.13a). These proposed changes are also set out in Tables 6.1 and 6.2:

Table 6.1: Proposed Minor Changes to the Proposed Submission Document Relating to the Revised Waste Hierarchy

<table>
<thead>
<tr>
<th>Proposed Minor Change - Suggested By</th>
<th>Policy Reference</th>
<th>Background to Change</th>
<th>Wording of Proposed Change</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>PMC4 Partner Boroughs</td>
<td>Page 9 Figure 2.1</td>
<td>Letter to Chief Planning</td>
<td>Replace Figure 2.1 with:</td>
<td>To be consistent with national policy</td>
</tr>
</tbody>
</table>
| PMC59 Partner Boroughs | Page 27 Objectives First Bullet Point | Letter to Chief Planning Officers from DCLG, 30 March 2011 | Delete: “Promote waste minimisation, re-use, recycling and composting”
Replace with: “Promote waste minimisation, preparing for re-use and recycling” | To be consistent with national policy |
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<tbody>
<tr>
<td>PMC97 Partner Boroughs</td>
<td>Page 49 Paragraph 4.79</td>
<td>Letter to Chief Planning Officers from DCLG, 30 March 2011</td>
<td>Delete: “thermal treatment with energy”</td>
<td>To be consistent with national policy</td>
</tr>
</tbody>
</table>
| PMC98 Partner Boroughs | Page 49/50 Paragraph 4.79 | Letter to Chief Planning Officers from DCLG, 30 March 2011 | Delete: “cannot practically and reasonably be reused, recycled or processed to recover materials.”
Replace with: “cannot practically and reasonably be reused or recycled” | To be consistent with national policy |

Table 6.2: Proposed Minor Changes to the Sustainability Appraisal on the Proposed Submission Document Relating to the Revised Waste Hierarchy

<table>
<thead>
<tr>
<th>Proposed Minor Change - Suggested By</th>
<th>Policy Reference</th>
<th>Background to Change</th>
<th>Wording of Proposed Change</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>PMC SA15 Partner Boroughs</td>
<td>Page 22 Figure 4.1</td>
<td>Letter to Chief Planning Officers from DCLG, 30 March 2011</td>
<td>Delete Figure 4.1 and replace with:</td>
<td>To be consistent with national policy</td>
</tr>
</tbody>
</table>
| PMC SA16 Partner Boroughs | Page 22 Figure 4.1 | Letter to Chief Planning Officers from DCLG, 30 March 2011 | Delete “Waste Prevention / Reduce” and replace with “Prevention”
Delete “Reuse” and replace with “Preparing for re-use”
Delete “Recycling/composting” and replace with “Recycling”
Delete “Recover” and replace with “Other recovery”
Delete “Residual Disposal” and replace with “Disposal” | To be consistent with national policy |
|-------------------------|----------------------|---------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------|
| PMC SA92 Partner Boroughs | Page 105 Para 9.4 First Objective | Letter to Chief Planning Officers from DCLG, 30 March 2011 | Delete: “Promote waste minimisation, re-use, recycling and composting”
Replace with: “Promote waste minimisation, preparing for re-use and recycling” | To be consistent with national policy |
| PMC SA100 Partner Boroughs | Page 123 Table 10.1 First Objective | Letter to Chief Planning Officers from DCLG, 30 March 2011 | Delete: “Promote waste minimisation, re-use, recycling and composting”
Replace with: “Promote waste minimisation, preparing for re-use and recycling” | To be consistent with national policy |
| PMC SA103 Partner Boroughs | Page 127 Sustainability Appraisal Matrix Table | Letter to Chief Planning Officers from DCLG, 30 March 2011 | Delete: “Promote waste minimisation, re-use, recycling and composting”
Replace with: “Promote waste minimisation,” | To be consistent with national policy |
<table>
<thead>
<tr>
<th>PMC SA113 Partner Boroughs</th>
<th>Page 186 Objective 1</th>
<th>Letter to Chief Planning Officers from DCLG, 30 March 2011</th>
<th>Delete: “Promote waste minimisation, re-use, recycling and composting”&lt;br&gt;Replace with: “Promote waste minimisation, preparing for re-use and recycling”</th>
<th>To be consistent with national policy</th>
</tr>
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<tbody>
<tr>
<td>PMC SA135 Partner Boroughs</td>
<td>Appendix 5 Page 18 Objective 1</td>
<td>Letter to Chief Planning Officers from DCLG, 30 March 2011</td>
<td>For “Vision and Objectives: Obj 11”:&lt;br&gt;Delete: “Promote waste minimisation, re-use, recycling and composting”&lt;br&gt;Replace with: “Promote waste minimisation, preparing for re-use and recycling”</td>
<td>To be consistent with national policy</td>
</tr>
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</table>

**6.3** The boroughs consider that these proposed minor changes are sufficient to make the South London Waste Plan consistent with the revised national policy.