

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD
PLANNING COMMITTEE**

MAIDENHEAD DEVELOPMENT CONTROL PANEL

6 July 2016

Item: 5

Application No.:	16/01236/FULL
Location:	Hérons Court Terrys Lane Cookham Maidenhead SL6 9RR
Proposal:	Erection of new detached dwelling following demolition of existing dwelling and buildings
Applicant:	Ms Scott
Agent:	Mr Paul Butt - Paul Butt Planning Ltd
Parish/Ward:	Cookham Parish

If you have a question about this report, please contact: Antonia Liu on 01628 796697 or at antonia.liu@rbwm.gov.uk

1. SUMMARY

- 1.1 The proposal for a new detached dwelling following the demolition of the existing house and outbuildings on site. While a replacement, the proposal would be a materially larger than the existing house and therefore represents inappropriate development, which by definition would be harmful to the Green Belt. Due to its scale, height, form, mass and bulk it would also result in the actual loss of openness across the site representing an intrusion/encroachment into the countryside which would conflict with one of the main purposes of the Green Belt namely 'to assist in safeguarding the countryside from encroachment', and harming the visual amenity of the locality.
- 1.2 A case of Very Special Circumstances has not been made by the applicant that clearly outweighs the harm by reason of inappropriateness and any other harm to justify the development.
- 1.3 The proposal is considered to be acceptable in terms of highway safety and parking, impact on neighbouring amenity, ecology and archaeology. At the time of writing, comments from the Council's Arboriculture Officer are still pending and will be reported in an update.

It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 10 of this report):

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| 1. | The proposal represents inappropriate development in the Green Belt which is by definition harmful to its openness and would conflict with one of the purposes of the Green Belt, and the applicant has failed to demonstrate that any very special circumstances exist that clearly outweigh the harm caused by the reason of inappropriateness and the other harm identified in subsequent reasons for refusal. |
| 2. | Due to its scale, height, form, mass and bulk the proposal would result in actual loss of openness across the site to the detriment of the representing an intrusion/encroachment into the countryside which would conflict with one of the main purposes of the Green Belt, and would harm the visual amenity of the locality. |

2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Clark if the Borough Planning Manager is minded to refuse the planning application to view the application on its merits.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The site comprises of a large detached dwelling and a number of ancillary outbuildings, including a garage building with a residential flat above, greenhouse and stables. The site lies outside the

recognised settlement boundary of Cookham in the Green Belt, and within an Area of Special Landscape Importance.

- 3.2 To the west lies a railway line, to the east lies the neighbouring property known as The Meadows (formally known as Fiveways), to the north the neighbour known as The Paddocks and to the south, on the opposite side of Terrys Lane, are residential properties along Poundfield Lane.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

4.1

Ref.	Description	Decision and Date
5923/64	Horse Box.	Approved – 27.6.1964
6725/65	Extensions.	Refused – 24.11.1965
7849/68	3 Stables.	Approved – 27.5.1968
96/30720	Residential dwelling in garden to replace flat at Herons Court.	Refused – 5.12.1997
14/00609	Part two part single storey rear extension with new front porch and associated alterations.	Approved 07.04.2014
14/03999	Erection of a detached dwelling following demolition of existing garage and annex and creation of new vehicular access.	Refused – 11.03.2015

- 4.2 The proposal is for a new detached dwelling following the demolition of an existing dwelling and outbuildings, including building incorporating garaging ground floor and ancillary accommodation at first floor level.

5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework, Section 6, 7, 9 and 11.

Royal Borough Local Plan

- 5.2 The main strategic planning considerations applying to the site and the associated policies are:

	Within settlement area	Highway and Car parking
Local Plan	GB1, GB2, GB3, N1, DG1	T5, P4

- 5.3 Supplementary planning documents adopted by the Council relevant to the proposal are:

- Sustainable Design and Construction
- Planning for an Ageing Population

More information on these documents can be found at:
http://www.rbwm.gov.uk/web/pp_supplementary_planning.htm

Other Local Strategies or Publications

- 5.4 Other Strategies or publications relevant to the proposal are:

- RBWM Landscape Character Assessment - view at:
http://www.rbwm.gov.uk/web_pp_supplementary_planning.htm
- RBWM Parking Strategy - view at:
http://www.rbwm.gov.uk/web_pp_supplementary_planning.htm

6. EXPLANATION OF RECOMMENDATION

6.1 The key issues for consideration are:

- i Whether proposed development is inappropriate development within Green Belt and the effect of the proposed development on the purposes of the Green Belt, its openness, its visual amenity and the appearance of the surrounding countryside.
- ii Design and Appearance.
- iii Impact on Neighbours.
- iv Highway Safety and Parking.
- v Other Material Considerations.
- vi Planning Balance and the Case of Very Special Circumstances.

Green Belt

Principle of Development

- 6.2 The site lies within the Green Belt with the fundamental aim to keep land permanently open as set out in paragraph 79 of the NPPF. Paragraph 89 of the NPPF indicates that with some exceptions the construction of new buildings is inappropriate development in Green Belt. The exceptions include the replacement of a building provided that the new building is in the same use and not materially larger than the one it replaces. In this case, the proposed house is considered to be significantly materially larger and therefore constitutes inappropriate development within the Green Belt. In comparison, the footprint of the original house measures approximately 215 square metres with a volume of approximately 1196 cubic metres while the proposed house would measure approximately 527 square metres with a volume of approximately 3365 cubic metres. This represents an increase of approximately 245% in footprint and approximately 281% in volume. It should be noted that this excludes the basement as this would be entirely underground save for the external staircase. As such, it would not harm openness or visual amenity of the Green Belt and therefore could not be considered as an encroachment into the countryside.
- 6.3 In terms of whether the proposal is materially larger, the proposal includes the demolition of a number of buildings and the submitted planning statement cites *Tandridge District Council v Secretary of State for Communities and Local Government* which states that when interpreting 'building' for the purposes of paragraph 89 of the NPPF and established that 'building' can refer to either a singular or multiple structures on a site. The applicant therefore argues that taking into account the demolition of the ancillary flat and outbuildings, which represent a loss of approximately 469 square metres in footprint and approximately 1488 cubic metres in volume the proposed building would consequently result in a 157 square metre reduction in footprint and 780 cubic metre gain in volume. However, paragraph 2.1.25 in the supporting text of Local Plan policy GB3, which is largely consistent with the NPPF, specifically states that the calculation of replacement floor areas will exclude the area of existing outbuildings which are not part of the living accommodation of the original dwelling unless there are Very Special Circumstances. In the decision making process the weight that should be given to the policy is significant as the planning process is a plan led system. The weight therefore afforded to Local Plan Policy GB3 policy in this instance outweighs the consideration of the piece of case law cited above.
- 6.4 By reason of inappropriateness and in accordance with paragraph 88 of the NPPF the weight against the proposed development is substantial.

Purpose and Openness Character of Green Belt

- 6.5 Paragraph 79 of the NPPF states the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Greenbelt are their

openness and their permanence. In accordance Local Plan policy GB2 states that permission will not be granted for development if it would have a greater impact on the openness of the Green Belt or purposes of including land in the Green Belt. As inappropriate development in the Green Belt, the proposal is by definition harmful to its openness and would conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. It is therefore considered that the encroachment into the countryside would be substantially harmful to the Green Belt.

- 6.6 In terms of openness the proposal is considered to be materially larger than the existing house on the site. Height, form, mass and bulk should also be taken into consideration when assessing the impact on openness. In this instance it is considered that the prominent two-storey gables on the front (south-east) elevation, measuring some 9.5m in height and 6m in width and incorporating two-storey-bay windows measuring approximately 2.5m in depth, adds significant mass and bulk to the building. To incorporate living accommodation within the roof space, the ridge of the roof to the single-storey elements measures approximately 7.1m in height and project above the eaves of the two storey element. This is considered to increase the visual impact of the built development and add further bulk and mass. Overall, in comparison to the existing house, the increase in scale which is assessed in paragraph 6.3, the height, form and resultant bulk would have a greater actual and visual presence on the site and would materially erode the open character of the Green Belt. The loss of the existing outbuildings are not considered to sufficiently mitigate the loss of openness as a result of the new house as with the exception of the residential annex and garaging the outbuildings are single storey and low level and therefore have a significantly lesser impact.
- 6.7 In accordance with paragraph 88 of the NPPF the harm caused by reason of the encroachment into the countryside and loss of openness should be given substantial weight.

Design and Appearance

- 6.8 There is no objection to the loss of the existing house and ancillary outbuildings which are not of any particular historic or architectural merit and it is acknowledged that the house and ancillary outbuildings are in poor condition. There is also no objection in relation to density as the proposal is for a replacement dwelling. While the proposed house is considered to be large and substantial it is not considered to be disproportionate or cramped within the plot being offset from the boundaries and with over 1,500 square metres of amenity space. However for the reasons outlined in paragraph 6.6 the proposed house, together with the additional hardstanding which equates to approximately 341 square metres, would result in the loss of openness and urbanisation of the site. The Cookham Village Design Statement states that the permissible size of buildings must relate to their context. The most important criterion is they should not appear to be over-dominant or to possess too great a mass vis-à-vis their surroundings, whether that may be neighbouring buildings or the open countryside. The site lies adjacent to the Cookham High Street Conservation Area and the relevant Conservation Area Statement states that the western end of the conservation area comprises of open spaces to the north and west The Pound and predominately agriculture in nature. As with other open areas of the village this openness provides an important contrast to the built areas of the village and help enforce the semi-rural nature of the settlement edge. Due to height, form, scale, mass and bulk, and amount of additional hardstanding the proposal fails to comply with this guidance, thereby failing to meet the aims and objectives of the Cookham Village Design Statement, and is considered to erode these identified characteristic, to the detriment of local character.
- 6.9 In terms of detailed design, the Cookham Village Design Statement states that for new development involving several dwellings it is important that new development should relate in a vernacular manner to the appearance of the neighbouring parts of Cookham. While the proposal involves a single replacement dwelling rather than several dwellings, given the aim to visually integrate new development harmoniously, this guidance is considered applicable and in particular policy G6.4. The site also lies within an Area of Special Landscape Importance and the Council's Landscape Character Assessment identifies that settlement within this landscape is variable, but a key characteristic is the vernacular style of traditional building forms. In this case the design incorporates overly ornate and decorative architectural features including colonnades, decorative brackets along the eaves, pointed pediments, rounded arch windows and contrasting stone

dressings. These features are not considered to be in keeping with this locality which is characterised by clean and simple lines. As such, the proposal is considered to be unduly incongruous with the character of the locality.

- 6.10 For these reason the proposal is considered to be contrary to Local Plan policy DG1 which states that harm should not be cause to the character of the surrounding area through development which results in the loss of important features that contribute to the character, N1 which states that Council will resist proposals that detract from the special quality of that landscape.

Impact on Neighbours

- 6.11 The relationship of the proposed house with adjacent neighbours at Paddocks to the north, Fiveways to the east, and Dawn Chorus and Fox Hollow to the south are considered acceptable given the separation distances. The nearest part of the proposed house to Paddocks would be the garage, which is sited approximately 4m from the shared boundary and over 25m from the house at Paddocks. Furthermore, while incorporating a 7.1m high ridge, a hipped roof is proposed that reduces mass and bulk. In relation to Fiveways, the two properties are separated by a shared private drive and there would be a distance of over 55m between the buildings. Dawn Chorus and Fox Hollow are located on the opposite site on Terrys Lane with over 30m between buildings. As such it is considered that there would be no unreasonable loss of light, visual intrusion or loss of privacy to occupiers of these neighbouring properties.

Highway Safety and Parking

Access and Visibility

- 6.12 The site, Herons Court, is located on Terrys Lane, Cookham. Terrys Lane is an adopted highway with a 60mph speed limit, however such speeds are rarely achieved as the road is very narrow. Terrys Lane is not street lit and has no forms of traffic calming. The proposal would consist of closing the existing access and constructing two new accesses to the east of the site off a private road. Both accesses would be gated. The accesses would provide good visibility when exiting the site.

Vehicle Parking and Cycle and Refuse Storage

- 6.13 In accordance with the Council's adopted parking standards a 6 bedroom dwelling would require 3 parking spaces. It is considered that there is sufficient room to accommodate 6 spaces on site on proposed hardstanding and within the proposed garage. The plan shows that there is enough room to accommodate cycle and refuse storage.

Vehicle Movements

- 6.14 The construction of a 6 bedroom dwelling has the potential to generate between 12 – 24 vehicle movements per day, which is not considered to significantly over and above the existing situation. The proposal is therefore not considered to be unduly impactful on local highway infrastructure.

Other Material Considerations

Trees

- 6.15 A good tree cover is present on the site itself as well as adjacent sites, with many semi-mature and mature trees of both native and exotic origin characterising the local area. The applicant has submitted an Arboriculture Report and Tree Protection Plan. Comments from the Council's Arboriculture Report are still pending and comments will be reported in an update.

Ecology

- 6.16 During the ecological appraisal which was undertaken in April 2015 a small number of bat droppings were recorded within the garage and a number of the other structures on site were recorded as having the potential to support bats. Further surveys revealed one common

pipistrelle emerging from around the lead flashing on the west facing dormer window of the main house and it was concluded that this was a summer roost of a single pipistrelle bat. The applicant has provided a bat mitigation and compensation plan with appropriate mitigation measures to compensate for the loss of the roosts within the buildings and includes the creation of replacement roosting opportunities, removal of bat roosting features under a watching brief and exclusion of any bats within the buildings all of which will be detailed within a method statement to accompany a European Protected Species licence. If minded to approve, this mitigation strategy could be secured by condition to make the development acceptable and comply with paragraph 109 and 118 of the NPPF.

- 6.17 Suitable habitats to support reptiles were recorded at the site and a further survey recorded the presence of a slow worm. The applicant's ecologist has recommended that a precautionary approach to vegetation clearance is followed in order to prevent the killing or injury of reptiles during development. If minded to approve this could be secured by condition to make the development acceptable and comply with paragraph 109 and 118 of the NPPF.
- 6.18 The trees, hedgerows and scrub were recorded as having the potential to support breeding birds. If minded to approve an informative is recommended to ensure vegetation removal is undertaken outside the breeding bird season (which spans from March to August inclusive) or immediately after subject to checks by an experienced ecologist.

Archaeology

- 6.19 Berkshire Archaeology's Historic Environment Record (HER) records a Saxon (AD 400 –900) inhumation cemetery 150m to the north of Herons Court, which appears to represent a cemetery of unknown extent while the associated settlement and fields of those buried in this cemetery will lie nearby. Evidence for prehistoric and Saxon remains were recorded during archaeological investigations to the south of Herons Court in 2008. An archaeological watching brief during the construction of extensions to the rear of Spencers (now The White Oak) recorded a high number of buried archaeological remains including some shards of rare Late Neolithic (3,300 – 2,100 BC) Grooved Ware pottery, pits and a ditch containing Early to Middle (6th – 7th century AD) pottery and a pit containing Saxo-Norman (10th – 11th-century AD) pottery. If permitted, the construction of the new house would potentially impact on buried archaeological remains. There is no objection in principle, however, subject to a condition to secure the implementation of a programme of archaeological works, (which may comprise one or more phases of work) in accordance with a written scheme of investigation, which has been submitted by the applicant and approved by the Planning Authority. Subject to this condition in the event of approval the proposal would accord with paragraph 128 of the NPPF.

Planning Balance and the Case of Very Special Circumstances

- 6.20 The NPPF states that inappropriate development is by definition harmful to the Green Belt, and should not be approved except in very special circumstances (VSC). Therefore the main issue is whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations which would amount to very special circumstances necessary to justify the development. Substantial weight is given against the development by reason of its inappropriateness, conflict with the purpose of the Green Belt, and harm to openness.
- 6.21 Paragraph 5.11 of the submitted Planning Statement the applicant cites a 'fall back' position is a material consideration in this case could amount to VSC necessary to justify the development. The 'fall back' comprises of what could be constructed under 'permitted development' to provide for the accommodation sought in the current application. However, the intention to implement permitted development is normally only given limited weight in favour of the proposal as there is no guarantee that these works can or will be implemented. It is also unclear how extensions under permitted development would result in development that is comparable to the scale, height and form of the proposed house. The applicant has cited a specific appeal case in Oxford where the Inspector opined that there was a likelihood of the 'fall back' position being implemented and it was appropriate to assess the proposed development against the 'fall back' position, but the appellant had obtained planning permission and a lawful development certificate in relation to the accommodation sought with plans showing how, within the limits of what may be lawfully

constructed, the works would be undertaken. No such steps or evidence have been taken by the applicant and so in this respect very little weight is assigned to the existence of a fallback position as none has been demonstrated with the proposal.

- 6.22 The applicant has also put forward the case of enhancement to openness and to the countryside character of the Green Belt as the new dwelling would be less conspicuous than the existing development. For the reasons in paragraph 6.6 it is considered that the design of the new dwelling would be visually prominent and would erode openness in comparison to the existing house and outbuildings. The applicant has also put forward a case that the countryside character would be improved through extensive new landscaping. No landscaping details have been submitted to support this case and for the LPA to assess the level of improvement and if there is reliance on landscaping to constitute Very Special Circumstances it is considered appropriate that details should be submitted prior to determination rather than secured by condition. Lastly, the applicant has stated that the scale, siting and design have been considered against Policy DG1, H10 and the Cookham Village Design Statement. However, compliance with DG1, is a policy requirement and would have to be met unless there are material considerations that indicate otherwise and Policies H10 and H11 are not relevant to the determination of this application. Furthermore, it is not considered that the proposal meets the aims and objectives of policy DG1 in relation to the loss of open character, which is a defining feature of the locality. It is therefore not considered that a case for VSC has been made by the applicant.
- 6.23 The NPPF also requires a balancing exercise of benefits against harm. The acceptability of the scheme in terms of highways, ecology and archaeology cannot be considered to outweigh the substantial harm to the Green Belt in respect of its inappropriateness, openness and purpose, or the moderate harm to the character of the countryside and locality. This is because the scheme is required to comply with the Development Plan; compliance with the plan cannot be then a benefit of the proposal.

7. CONSULTATIONS CARRIED OUT

Comments from interested parties

3 occupiers were notified directly of the application. The planning officer posted a statutory notice advertising the application at the site on 4 May 2016.

3 letters were received supporting the application, summarised as:

Comment		Where in the report this is considered
1.	Existing house is in poor condition and design of new house will enhance the area / be an asset to Cookham.	Para. 6.6, 6.8 – 6.11
2.	Will have little visual impact on neighbouring properties and setting does merits the scale and nature of proposed house.	Para. 6.8, 6.11
3.	No increase in traffic to Terry's Lane.	Para. 6.14

Other Consultees

Consultee	Comment	Where in the report this is considered
Berkshire Archaeology	Berkshire Archaeology's Historic Environment Record (HER) records a Saxon (AD 400 – 900) inhumation cemetery 150m to the north of Herons Court and evidence for Saxon as well as prehistoric remains were recorded during archaeological investigations to the south of Herons Court in 2008.	Para. 6.19

	<p>If permitted, the construction of the new house would potentially impact on buried archaeological remains. There is no objection in principle, however, subject to condition to secure the implementation of a programme of archaeological works, (which may comprise one or more phases of work) in accordance with a written scheme of investigation, which has been submitted by the applicant and approved by the Planning Authority to accord with paragraph 141 of the NPPF.</p>	
Cookham Parish Council	<p>Objects on overdevelopment in the Green belt, comprising its openness.</p>	<p>Para. 6.2 – 6.7</p>
Ecology	<p><u>Bats</u> The submitted ecology appraisal / surveys recorded bat droppings were found on site and one common pipistrelle was recorded emerging from the main house. All species of bat are protected and it is illegal to deliberately or recklessly kill, injure, capture or disturb bats, obstruct access to bat roosts or damage or destroy bat roosts, whether occupied or not. The applicant has provided a mitigation and compensation plan with appropriate measures to the loss of roosts and removal of bat roosting features. Should the LPA be minded to approval the proposal, the submitted mitigation measures should be secured by condition.</p> <p><u>Reptiles</u> The submitted ecology appraisal / surveys recorded the presence of slow worms, which is a protected species. All native species of reptile are protected from killing and injury. The applicant's ecologist has recommended that a precautionary approach to vegetation clearance is followed in order to prevent the killing or injury of reptiles during development. Should the LPA be minded to grant planning permission the submitted mitigation measures should be secured by condition.</p> <p><u>Birds</u> The trees, hedgerows and scrub were recorded as having the potential to support breeding birds. Breeding birds, their eggs and active nests are protected. Should the LPA be minded to grant planning permission a condition is recommended that vegetation removal should be undertaken outside the bird breeding season (March to August inclusive) or else vegetation clearance should be undertaken immediately subsequent to checks by an experienced ecologist.</p> <p><u>Biodiversity</u> To accord with paragraph 109 of the NPPF and Section 40 of the Natural Environment and Rural Communities Act 2006 it is recommended that detailed ecological enhancement proposals are provided to the local planning authority for their approval. Enhancements suitable for this site include native species planting, installation of bird and bat boxes and creation of log piles.</p>	<p>Para. 6.16 – 6.18</p>

Environmental Protection	No objection subject to informatives relating to contaminated land, dust and smoke control, and hours of construction.	Noted
Local Highway Authority	<p>No objections to the proposal subject to the following - Conditions:</p> <p>No part of the development shall be occupied until vehicle parking space has been provided in accordance with the approved drawing. The space approved shall be retained for parking in association with the development. Reason: To ensure that the development is provided with adequate parking facilities in order to reduce the likelihood of roadside parking which could be detrimental to the free flow of traffic and to highway safety. Relevant Policies - Local Plan P4, DG1.</p> <p>5 The existing access to the site shall be stopped up and abandoned immediately upon the new accesses being first brought into use. The footways and verge shall be reinstated before the development is first occupied in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Reason: In the interests of highway safety and of the amenities of the area. Relevant Policies - Local Plan T5, DG1.</p> <p>Informatives:</p> <p>5 The attention of the applicant is drawn to the Berkshire Act 1986, Part II, Clause 9, which enables the Highway Authority to recover the costs of repairing damage to the footway or grass verge arising during building operations.</p>	Para. 6.12 - 6.14

9. APPENDICES TO THIS REPORT

- Appendix A - Site Location Plan
- Appendix B - Site Layout
- Appendix C - Proposed Plans and Elevations

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. The Case Officer has sought solutions to these issues where possible to secure a development that improves the economic, social and environmental conditions of the area, in accordance with NPPF.

In this case the issues have not been successfully resolved.

10. RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED

1. The proposal represents inappropriate development in the Green Belt which is by definition harmful to the Green Belt, and the applicant has failed to demonstrate that Very Special Circumstances exist that clearly outweigh the harm caused by the reason of inappropriateness and the other harm identified in subsequent reasons for refusal. The proposal is therefore contrary to paragraph 87, 88 and 89 of the National Planning Policy Framework (2012) and saved Policies GB1 and GB3 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003).
2. Due to its scale, height, form, mass, bulk and amount of hardstanding the proposal would result in the actual loss of openness across the site and urbanisation of the site. This would conflict with one of the main purposes of the Green Belt, and be unduly harmful to the open and rural character of Area of Special Landscape Importance and the locality in general. Furthermore the

form and design of the proposed house would be incongruous with the vernacular architecture that is characteristic of the area, to the detriment of visual amenity. This is contrary to Paragraph 60, 79 and 80 of the National Planning Policy Framework (2012) and saved Policy GB1, GB3, GB2 (a), DG1 and N1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations adopted June 2003), and policy G6.4the Cookham Village Design Statement 2013.