

Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of Regulatory and Appeals Committee to be held on 11th March 2021

AY

Subject:

This application (20/05807/FUL) is seeking retrospective planning permission for change of use of 71 Beacon Road, Bradford from a doctor's surgery with flat above to a mosque.

Summary statement:

The application is retrospective made under section 73A of the Town and Country Planning Act 1990 as the use commenced approximately 3 years ago on the understanding that planning permission was not required. This situation arose as the previous use as a doctor's surgery and the proposed use as a mosque fell within the same use class (D1). The advice given to the applicant considered a residential flat above to be ancillary, and did not take into account an unauthorised change of use that had occurred. This position was subsequently challenged and following the decision of the local Government Ombudsman the position has subsequently been reviewed.

In light of the above, permission is now sought to regularise the change of use.

The application has been fully assessed against all relevant local and national planning policies and all public representations and consultation responses have been fully taken into consideration. The mosque is considered to represent a modest, but valuable community facility that does not result in significant harm to the amenity of neighbours, visual amenity or, in conditions prejudicial to highway safety.

Subject to the imposition of the recommended conditions it is considered that the proposal is acceptable.

Julian Jackson
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Portfolio:
Regeneration, Planning and Transport

Overview & Scrutiny Area:
Regeneration & Economy

1.SUMMARY

This application (20/05807/FUL) is seeking retrospective planning permission for change of use of 71 Beacon Road, Bradford from a doctor's surgery with flat above to a mosque.

2. BACKGROUND

Attached as Appendix 1 – A copy of the Case Officer's report which identifies the background and material considerations for the proposal.

3. OTHER CONSIDERATIONS

None

4. FINANCIAL & RESOURCE APPRAISAL

There are no financial implications for the Council arising from this application. The proposal is not liable for Community Infrastructure Levy.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

No implications

6. LEGAL APPRAISAL

The determination of the application is within the Council's powers as the Local Planning Authority.

7. OTHER IMPLICATIONS:

7.1 EQUALITY & DIVERSITY

Equality Act 2010, Section 149 - In the assessment of this proposal, due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups.

7.2 SUSTAINABILITY IMPLICATIONS

None

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are not considered to be any significant greenhouse gas emissions impacts caused by the proposed development.

7.4 COMMUNITY SAFETY IMPLICATIONS

The Community Safety Implications of the proposed development are considered in Appendix 1.

7.5 HUMAN RIGHTS ACT

Article 6 – right to a fair and public hearing. The Council must ensure that it has taken into account the views of all those who have an interest in, or whom may be affected by the proposal. This is incorporated within the report attached as Appendix 1.

7.6 TRADE UNION

None

7.7 WARD IMPLICATIONS

There are no Ward implications posed by this development.

7.8 IMPLICATIONS FOR CORPORATE PARENTING

None

7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESSMENT

No privacy impact assessment was undertaken, due to the nature of the proposal.

8. NOT FOR PUBLICATION DOCUMENTS

There are no 'not for publication' documents.

9. OPTIONS

This Committee has the authority to approve or refuse this development. As the Local Planning Authority has recommended approval, the reason and conditions for approval have already been stated in the officer's report (Appendix 1). If members are minded to refuse the application, a reason for refusal will need to be given.

10. RECOMMENDATIONS

It is recommended that the Committee accept the recommendation of approval within the report attached as Appendix 1.

11. APPENDICES

Appendix 1 – Planning Officer's Report

Appendix 2 – Ombudsman decisions.

12. BACKGROUND DOCUMENTS

National Planning Policy Framework

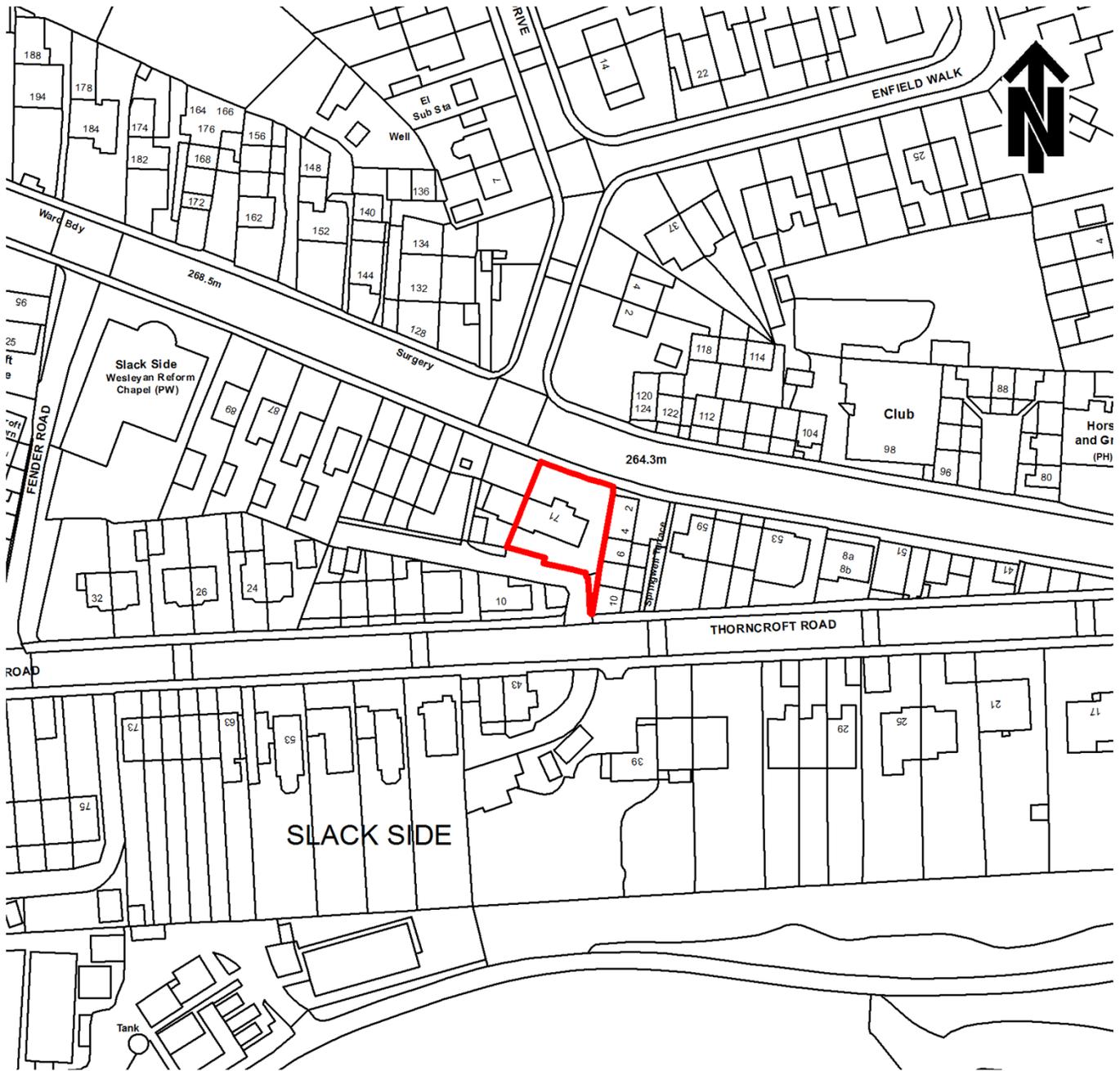
The Core Strategy Development Plan Document

The Replacement Unitary Development Plan for Bradford District

20/05807/FUL



City of
BRADFORD
METROPOLITAN DISTRICT COUNCIL



1:1,250

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71 Beacon Road
Bradford BD6 3ET

Ward: Wibsey (ward 27)

Recommendation:
To grant planning permission

Application Number:

20/03816/FUL

Type of Application/Proposal and Address:

This is a full application for retrospective planning permission made under section 73A of the Town and Country Planning Act 1990 to change the use of 71 Beacon Road, Bradford from a doctor's surgery with flat above to a mosque.

Applicant:

Mr Zahoor Ahmed

Agent:

Mr Michael Ainsworth

Site Description:

71 Beacon Road is in appearance not dissimilar to the residential property it is adjoined, but it has been extended to the side and has been in a variety of uses. The uses have however had little impact on the appearance which retains a residential character. There have been more recent additions to the front and rear, but these are modest porch style structures. The most notable aspect is the quantity of hardstanding, which is to the front side and rear in lieu of a garden. There is also some limited signage associated with the current use.

The predominant land use in the locality is residential, and in addition to the adjoined property, there are residential properties to the opposite side boundary. These have a different orientation and their rear elevations abut the site. Pedestrian access is available from Beacon Road, but vehicular access is solely to the rear via a private road accessed off Thorncliffe Road.

Relevant Site History:

88/00005/COU- Change of use of dwelling to doctors surgery with flat over – Granted

17/03281/FUL - Formation of enlarged existing front porch and a lobby extension to the rear – Granted

20/03816/FUL - Change of use of former doctor's surgery with flat above to a mosque (Use Class F1) - Withdrawn

The National Planning Policy Framework (NPPF):

The National Planning Policy Framework is now a material planning consideration on any development proposal. The Framework highlights the fact that the purpose of the planning system is to contribute to the achievement of sustainable development and that there is a presumption in favour of sustainable development which can deliver:-

- i) Planning for prosperity (an economic role) - by ensuring that sufficient land of the

- right type and in the right places is available to allow growth and innovation;
- ii) Planning for people (a social role) - by promotion of strong, vibrant and healthy communities by providing an increase supply of housing to meet the needs of present and future generations and by creating a good quality built environment with accessible local services;
- iii) Planning for places (an environmental role) - by protecting and enhancing the natural, built and historic environment, adapting to climate change including moving to a low-carbon economy.

As such the Framework suggests local planning authorities should approve development proposals that accord with statutory plans without delay.

Local Plan for Bradford:

The Core Strategy Development Plan Document was adopted on 18 July 2017 though some of the policies contained within the preceding Replacement Unitary Development Plan (RUDP), saved for the purposes of formulating the Local Plan for Bradford, remain applicable until adoption of Allocations and Area Action Plan development plan documents. The site is unallocated. Accordingly, the following adopted Core Strategy policies are applicable to this proposal.

Core Strategy Policies

SC9 Making Great Places
DS1 Achieving Good Design
DS3 Urban character
DS5 Safe and Inclusive Places
EN3 Historic Environment
EN8 Environmental Protection Policy
TR2 Parking Policy

Parish Council:

N/A

Publicity and Number of Representations:

The application was publicised by individual neighbour notification letter. The publicity period expired on 19.01.2021. There have been 314 representations received.

Summary of Representations Received:

The 28 representations received in objection cite the following reasons:

Noise and disturbance
Highway safety and issues around parking and access
Conflict between users and residents for parking
Previous unauthorised works
The use is operating unlawfully
Inadequate publicity

The 285 representations in support of the change of use raise the following points:

The facility provides essential religious and educational services
The facility is conveniently located allowing easy access and within a walkable distance from the community it serves.

It is worthy of note that 5 of the comments in support were incorrectly submitted as objections, and that a proportion of the support do not provide reasons for their support.

Consultations:

Highways DC – It is accepted that the use may result in some additional on street parking at peak prayer times it is not considered that this will be so significant as to result in harm to the safe and free flow of traffic in the area or result in highways safety problems.

Environmental Protection – No objections, and have had no complaints to investigate over the last 3 years.

Rights of Way (ROW) – Footpath Bradford South 187 runs close to the site, the proposal does not appear to materially impact the footpath, but parking should be carried out so as not to adversely impact the ROW.

Design and Conservation – There are listed buildings on the opposite side of Beacon Road. The setting of these will not be harmed by this proposal. The requirements of policy EN3 are satisfied.

Summary of Main Issues:

1. Background and History
2. Procedural note
3. Principle
4. Residential Amenity
5. Visual Amenity
6. Highway Safety
7. Other matters raised in the representations

Appraisal:

1. Background and History

The application is retrospective as the use commenced approximately 3 years ago on the understanding that planning permission was not required. This situation arose as the previous use as a doctor's surgery and the proposed use as a mosque fell within the same use class (D1). The advice given to the applicant considered a residential flat above to be ancillary to the doctor's surgery, and did not take into account an alleged unauthorised change of use to a dental laboratory. This position was subsequently challenged and following the decision of the local Government Ombudsman (LGO) the position has subsequently been reviewed.

In light of the above, permission is now sought to regularise the change of use of 71 Beacon Road to a mosque. There have been two LGO decisions in respect of how the Council have dealt with the property, and whilst the decisions are not materially relevant to the determination of this application, as they relate to the need for planning permission and the enforcement procedure, in the interests of transparency they are attached as appendices to the report.

2. Procedural note

As of the 1st of September a new use class order comes into force. This sees the use as

a doctor's surgery now fall within use class E of the use class Order 2020. A mosque (place of worship) now falls within use class F1.

In its simplest form, and assuming that the immediately preceding use was as a doctor's surgery with flat above and not the alleged use as a dental laboratory the application would represent a change of use from a mix of class E and class C3 to class F1.

However, the proceeding use is a matter of contention given an alleged intervening unauthorised use as a dental laboratory. As this use was unauthorised, and the council subsequently holds no records of it, there remains some doubt as to the extent of the dental laboratory and whether this related to the use of the entire building or, just the first floor.

It subsequently could be contended that as the previous planning permission related to two distinct planning units, which contrary to the council's previous stance is considered to be the case, the ground floor of the property could have potentially been used as a mosque without prior planning approval as a doctor's surgery and a place of public worship at the relevant time fell within the same use class (D1). If, however the dental laboratory occupied both floors it would compromise the ability to operate a mosque at ground floor under permitted development rights as the mosque use would be a change of use from the unauthorised dental laboratory use (which falls outside use class D1). On this basis permission would be required for the whole building.

The application however makes no distinction between the ground and first floor as planning units, as such, and notwithstanding the description of development, the application is taken as a change of use of the whole building. In doing so it is acknowledged that there remains the potential that it could be established that the ground floor may not require planning permission, but this has not been put forward or, established as part of this application.

It is also worthy of note that this application is a resubmission of a previously withdrawn application. Whilst the application inherently remains the same, details have now been provided of a noise insulation scheme, as well as revisions to the parking layout.

3. Principle

The property/site is unallocated in the Replacement Unitary Development Plan (RUDP) and as such is not allocated for a specific land use. There are therefore no policies that would seek to resist the principle of development and the principle of establishing a place of worship is found acceptable. Indeed, an alternative use to the original residential use of the property has been established in the past with the granting of permission for the medical centre, and it complies with the principles of sustainable development placing community facilities in easy reach of residential areas.

The application however remains subject to an assessment of the local impact of development and the main issues will now be considered:

4. Residential Amenity

A previous approval clearly establishes that a D1 use had been created at the ground floor, leaving the possibility that a change of use to a place of worship may not have

required planning permission, this also establishes that a D1 use at the time was considered an appropriate use for the ground floor of the property. This permission was granted without the imposition of conditions that would restrict future changes or, the hours of operation.

The mosque that is now applied for is a modest place of worship comprised of; at ground floor a prayer hall (approximately 45 sqm in size) alongside toilets and a utility room. At first floor the layout is replicated with a small prayer hall alongside a toilet, small kitchen and store.

The supporting information states that the numbers currently attending the mosque are around 20 which is split over morning and evening prayer. Morning Prayer takes place between 6am and 7:30 am with the exception of June to August where these will occur between 4am and 5am. Evening prayer takes place between 6pm and 9pm with the exception of June to August when this is between 10pm and 11pm. The low numbers are not unexpected for a modestly sized facility such as this which is predominantly aimed at serving the local community. It is however acknowledged that these numbers increase for special occasions and the main prayer session on a Friday afternoon. That said the capacity of the mosque is naturally limited by the available floor space and the activity around Friday prayer is centred around 15minute prayer time and a sermon of approximately 30 minutes. The representations however indicate there remains some issues.

The issues are primarily related to highway issues which are discussed below, but in amenity terms above and beyond the previously approved use, it has to be acknowledged that some of the hours (early in the morning/late at night) have the potential to have some implications for neighbouring amenity, and this is also noted in the representations received. That said, the Environmental Health Officer has raised no objections to the use, and has had no complaints to investigate, notwithstanding that these premises have been operating as a mosque for approximately 3 years. Furthermore, to mitigate these concerns the applicants have provided information on a noise insulation scheme to be installed between the adjoining property to minimise the potential for future disturbance. With these measures the use itself would not be considered to carry a significant threat of noise and disturbance.

Some noise and disturbance generated by the comings and goings can still be expected, but in the main this will occur when there is likely to be some existing activity and background noise within this locality. The applicants have stressed that this is a facility for local community, where people are likely to walk to the facility and it has generated a significant level of support from the community to back this view up. The mosque is clearly of a scale which supports this intention, and against any impact, the benefits to the community have to be weighed. Residents would also be forced to drive to a facility further afield should this facility not exist. It is apparent that previously approved use would have likely generated greater levels of comings and goings throughout the day, but as a further improvement on the current situation the applicant has agreed to mark out the available parking spaces within the site. This will serve to keep vehicles away from neighbouring properties, but should also serve to limit vehicular activity to the rear of the site and the private access road.

Subject to a condition requiring a noise insulation scheme to be installed between the adjoining property and the parking to be marked out, the proposal is found to be compliant

with the requirements of policy DS5 of the Core Strategy DPD.

5. Visual Amenity

The change of use comes with no external alterations, above and beyond those considered under application reference: 17/03281/FUL - Formation of enlarged existing front porch and a lobby extension to the rear, which was granted planning permission and constructed. The representations make reference to other matters that have taken place at the site, but these have been considered through the enforcement process and also do not form part the current application.

Given the above, and the fact that any signage would be subject to the requirement for advertisement consent, the impact of the change of use on visual amenity is considered to be negligible, and the proposal satisfies the requirements of policies DS1 and DS3 of the Core Strategy DPD.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Grade II listed buildings are present within the vicinity of 71 Beacon Road, most notably on the opposite side of Beacon road, but given the limited visual implications of this proposal there is no harm to their setting and the requirements of policy EN3 are also satisfied.

6. Highway Safety

The parking standards contained in policy TR2 of the Core Strategy DPD for a place of worship at 1 space per 25sqm equates to a requirement of 6 spaces given the floor area of approximately 140sqm. This is reduced to 4 spaces based on the congregational area. Whilst the site has the capabilities to meet this requirement, to date parking has been carried out informally at the site. The representations indicate this has been to limited success, even with the applicant's indication that a marshal has been introduced to ensure parking is carried out considerately at busy times.

The primary concern relates to Friday prayer when there is a requirement for prayer to take place at a mosque, outside these times this is not a strict requirement. The limited numbers indicated at other times would suggest this mosque will not significantly outweigh the off street provision available at other times, especially given its primary function is to serve the local community where worshippers are likely to walk. Public transport also represents a viable transport option as the premises are on a good public transport route.

The Friday prayers last for approximately 15 minutes preceded by a short sermon of around 30 minutes by the Imam. It is obligatory for all Muslim males to perform prayer at a mosque on this occasion and generally Muslims are encouraged to go to the main Mosque at Horton Park, but if this is not possible worshippers visit the mosque nearest to their place of work or home. Friday prayer can as such attract passers-by who are in the locality, if they are unable to reach their normal place of worship. Given the size and location of the mosque it is not envisaged that this would attract a significant number of additional worshippers, but it can contribute to variations in the numbers visiting at this time.

In view of the above, the council's highway officer accepts that the level of parking stipulated may not be sufficient for the weekly Friday prayer and any other high intensity one off events, and consequently, a higher parking demand would need to be met on street.

As the application is retrospective, there is some evidence provided in the representations showing mosque parking taking place on Beacon Road, Thorncroft Road and Enfield Drive. Whilst this on street parking may cause some inconvenience, it confirms that there is sufficient on street parking space available to cater for any excess demand from this site at peak times. This is also likely to occur when many residents are at work.

Nevertheless, objectors have raised concerns regarding haphazard parking, particularly at the rear blocking the private access road and highway safety issues arising from worshippers parking on street. Whilst parking on private road is a private matter, to alleviate this threat, it has been agreed to formalise the parking arrangement at the mosque to reduce the likelihood of indiscriminate parking taking place. In terms of the implications for highway safety the site has been operational for approximately 3 years and there is no evidence of highway safety problems occurring in this locality. An examination of road traffic collision records within a 150m radius of this site, only shows 2 injury collisions for the past 5 years. One of these was a right turning vehicle from Beacon Road to Enfield Drive colliding into a cyclist due to visibility problems caused by the low sun. The second collision occurred further south on Beacon Road with a car turning left out of a driveway into the path of an oncoming vehicle.

Therefore, whilst acknowledging that the use may result in some additional on street parking it is considered that this will not be so significant as to result in harm to the safe and free flow of traffic in the area or result in highways safety problems.

7. Other matters raised in the representations

Previous unauthorised works. These have been considered through the enforcement process and bare no relevance to the current application.

Inadequate publicity. The LPA has satisfied the publicity requirements for the application, and the number of representations received would suggest the publicity has been successful in alerting the public to the application.

Community Safety Implications:

No community safety implications

Equality Act 2010, Section 149:

In writing this report due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups.

Reason for Granting Planning Permission:

The mosque subject of this application is considered to represent a modest, but valuable community facility that does not result in significant harm to the amenity of neighbours, visual amenity or, in conditions prejudicial to highway safety. The requirements of the National Planning Policy Framework, and policies DS1, DS3, DS4, DS5, EN3 and EN8 are

duly satisfied.

Conditions of Approval:

1. Within 3 months of the decision date the sound proofing scheme shall be installed in line with the sound insulation details provided and shown on drawing ref: 201A.

Reason: To minimise the impact of noise emitted from the site on neighbouring noise sensitive locations and to accord with Policies DS5 and EN8 of the Core Strategy Development Plan Document.

2. Within 3 months of the decision date the proposed car parking spaces shall be laid out and marked out into bays in accordance with the approved plan numbered 1107-202 P SITE A1 - REV A. The car park so approved shall be kept available for use while ever the development is in use.

Reason: In the interests of highway safety and to accord with Policy TR2 of the Core Strategy Development Plan Document and the National Planning Policy Framework.