

**Town and Country Planning (Inquiries Procedure)  
(England)  
Rules 2000**

**Appeal by R. G. and A. S Jones  
& Fox Strategic Land and Property Limited  
Land at East of Failand, Failand  
North Somerset**

**Proposed Construction of residential development  
including highways, landscaping, open space and  
associated works**

**APP/D0121/A/09/2117326**

**Rule 6 Statement of Case  
Prepared by Fox Strategic Land and Property Limited**



**January 2010**

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## 1 THE PROPOSAL

### 1.1 Introduction

1.1.1 This statement relates to a proposal to create a sustainable extension to the existing settlement of Failand whilst also simultaneously contributing to the delivery of an Urban Extension to the South West of Bristol.

1.1.2 The planning application comprises:

- Residential Development of up to 500 Dwellings
- 60 no. Use Class C2 Residential Apartments with Care for Persons Aged Sixty years and Over
- Reservation of a Site for a Primary School for the Local Education Authority
- B1 Business Space
- Local Convenience Shop
- Doctors Surgery/Consulting rooms
- Highway and Associated Infrastructure Works
- Formal and Informal Public Open Space
- Landscaping

1.1.3 The application is made in outline with all matters reserved for later consideration, save for that of access.

1.1.4 The application the subject of the Appeal was submitted on 17<sup>th</sup> August 2009. The application was validated on 19<sup>th</sup> August 2009.

1.1.5 The planning application was accompanied with a number of supporting documents which are enclosed within the appeal documentation as Core Documents. These are as follows: -

- Transport Assessment and Travel Plan – Key Transport Ltd
- Flood Risk and Drainage Assessment – Gladman
- Design & Access Statement – Faulks Perry Culley & Rech (FPCR)
- Archaeological Appraisal - EDP
- Landscape & Visual Impact Assessment - FPCR

- Ecological Assessment - EDP
- Arboriculture Assessment – Pegasus Environmental
- Hedgerow Appraisal - Pegasus Environmental
- Services and Utilities Statement – Gladman
- Site Investigation – Johnson Poole and Bloomer (refer to Appendix F of FRA)
- Statement of Community Involvement – FLP (refer to Appendix 2 of Planning Statement)
- Renewable Energy and Sustainability Statement – FLP

1.1.6 The list of supporting documents was agreed with North Somerset Council (NSC) prior to submission.

1.1.7 The application was deemed refused on 19<sup>th</sup> November 2009 as NSC failed to determine the application within the statutory period. A planning appeal for non determination was submitted 20<sup>th</sup> November 2009.

## **2 THE APPEAL SITE AND ITS SURROUNDINGS**

- 2.1.1 The Appellant will describe the Appeal Site and surrounding area.
  
- 2.1.2 Evidence will be adduced in respect of landscape character with regard to the visual impact of the development on the site and its surrounds. It will be demonstrated that the proposed development can be satisfactorily assimilated into its surroundings.
  
- 2.1.3 The appellant will describe the functional characteristics of the existing settlement and will explain the beneficial changes that will be brought about by the development.

### **3 PLANNING HISTORY**

- 3.1.1 The Appellant will describe the general planning history of the Appeal site. Particular attention will be drawn to the development of the existing settlement in tandem with the relevant planning policies and designations that have applied to the settlement throughout the same period.

## **4 PLANNING POLICY STATEMENTS AND GUIDANCE**

### **4.1 Documents**

4.1.1 The following is a list of relevant Central Government guidance relevant to the Appeal which the Appellant will refer to:

- PPS 1: General Development and Principles (2005)
- PPG 2: Green Belts (1995)
- PPS 3: Housing (2006)
- PPS 4: - Planning for Sustainable Economic Development (and related consultation statement) (2009)
- PPS 7: Sustainable Development in Rural Areas (2004)
- PPS 9: Biodiversity & Geological Conservation (2005) (and supporting Circular 06/05)
- PPS 11: Regional Planning
- PPS 12: Local Spatial Planning (2008)
- PPG 13: Transport (2001)
- PPG 17: Planning for Open Space, Sport and Recreation
- PPS 22: Renewable energy
- PPS 25: Development and Flood Risk (2006)

### **4.2 The Development Plan and Emerging Planning Policy**

4.2.1 The development plan comprises:

- a. North Somerset Replacement Local Plan - Adopted March 2007 (NSRLP)
- b. Joint Replacement Structure Plan - Adopted September 2002 (JRSP)
- c. Regional Planning Guidance 10 for the South West (RPG)

4.2.2 The Appellant will demonstrate that the proposals accord with the key tenets of the RPG 10, NSRLP, and JRSP. Emerging draft South West Regional Spatial Strategy (RSS) will be a key material consideration. As an emerging RSS it has reached an extremely advanced stage of preparation and therefore consideration will be given to it against the extant but somewhat out dated development plan.

4.2.3 Emerging RSS emphasises the "step-change" required to deliver economic growth and prosperity to the region and specifies that a commensurate amount of housing will be required.

4.2.4 The Appellant will refer to the fact that Core Strategy has not reached an advanced stage and thus limited weight should be afforded to it. The appellant will refer to the Council's preparation of its Core Strategy draft which despite now purposefully conflicting with the emerging RSS has actively encouraged the SUE at South West of Bristol.

#### 4.3 **Other Relevant Decisions**

4.3.1 The Appellant will draw upon a number of material Appeal decisions where issues of a similar nature to those raised by the proposals have been decisive.

## 5 THE APPELLANT'S CASE

### 5.1 Introduction

5.1.1 The Appellant's evidence will relate to the grounds of appeal.

5.1.2 The appeal is for non-determination within the statutory timeframe where planning permission should have been granted. The Council has published a committee report on Monday 4<sup>th</sup> January 2010 which specifies a number of reasons for refusal had they been the decision maker. Given the proximity of publication of the committee report against the submission deadline for this statement the putative reasons for refusal are not considered herein. Accordingly the Appellant would wish to respond fully to the Council's intended reasons for refusal and any others matters which may arise at planning Committee when the matter is considered by the Council on 7<sup>th</sup> January 2010. Therefore the Appellant reserves the right to, and will, respond separately on any matters raised by NSC which are different to those raised by the Secretary of State.

5.1.3 PINS wrote to the Inquiry parties (9<sup>th</sup> December 2009) setting out the eight matters (a-h) about which the Secretary of State wishes to be informed for the purposes of consideration and determination of the Appeal. These matters are considered below in turn.

### 5.2 (a) Accordance with Development Plan

5.2.1 Matter **(a)** seeks consideration of *"the extent to which the proposed development would be in accordance with the development plan for the area."*

5.2.2 The Appellant will demonstrate that the proposals accord with the key tenets of the RPG 10, NSRLP, and JRSP. It will be noted that these policies are somewhat outdated.

5.2.3 Evidence will be adduced that addresses the policy hierarchy, for the South West Region, the County wide policy framework and the District area of North Somerset. It will be demonstrated that the development proposals, wherever possible, have been designed to achieve compliance with the current adopted development plans, particularly with regard to matters of detail.

- 5.2.4 Attention will be drawn to the emerging RSS and the weight to be accorded to it. Particular regard will be had to the spatial and functional approach of the emerging RSS to building sustainable communities. Further the objectives that propose a step change in economic growth and housing delivery to support that growth will be examined. Compliance with emerging RSS will be demonstrated.
- 5.2.5 Emerging RSS establishes the justification and need for a sustainable urban extension to the South West Bristol. Evidence will demonstrate that these proposals also directly accord with the policy objectives set out within draft RSS and given its extremely advanced stage of preparation it should be afforded significant weight. Insofar as there is inconsistency between the emerging RSS and the extant development plan policies in the consideration of the appeal proposals then greater weight should be accorded to the emerging RSS.
- 5.2.6 It will be demonstrated that emerging RSS provides the policy justification and need to “roll back” the Green Belt to deliver the SUE whilst also invoking a review of Green Belt to establish its new geographic designation.
- 5.2.7 The evolution of Local Development Framework policy that has informed NSC Draft Core strategy will be examined in tandem with the consultation process and results. Evidence will be adduced which demonstrates that the proposals for Failand formed part of the Council's delivery strategy for the SUE South West of Bristol and they received a significant degree of support.
- 5.3 **(b) Consistency with PPS1**
- 5.3.1 Matter **(b)** seeks consideration of *“the extent to which the proposed development would be consistent with Government policies in Planning Policy Statement 1: Delivering Sustainable Developments, and accompanying guidance The Planning System: General Principles with particular regard to whether the design principles adopted in relation to the site and its wider context, including the layout, scale, open space, visual appearance and landscaping, will preserve or enhance the character and appearance of the area, having regard to the advice in paragraphs 33 to 39 of PPS1.”*
- 5.3.2 Evidence will be adduced that demonstrates that the fundamental design principles for this development are based upon delivering a sustainable development that will build the community.

- 5.3.3 Contextual analysis will evidence the evolutionary development of the settlement of Failand. It will be demonstrated that proposals have been carefully designed to achieve a sensitive integration between the existing settlement and proposed development. The evidence will demonstrate that the proposals are respectful to the existing settlement and make for a cohesive pattern of development and one that will build the community in a sustainable way.
- 5.3.4 The functional relationship that Failand shares with the Regional centre of Bristol and other nearby settlements within North Somerset will be examined. Evidence will be adduced which demonstrates that a beneficial change in sustainability credentials will be brought about by these proposals both making Failand a more self sustaining community particularly by way of introduction of a range of transport alternatives rather than reliance on the private vehicle as is largely the case now. It will be shown that the proposals address the connections between people and places by considering the needs of people to have access to jobs and key services.
- 5.3.5 The layout of the development is depicted within the illustrative masterplan produced by FPCR. Whilst illustrative, the masterplan provides a sound evidence base demonstrating that the site can be developed in such a way so as create high quality living environment interspersed with formal and informal open space which will be an enduring asset to community life.
- 5.3.6 Evidence will be adduced that articulates the key principles within the illustrative masterplan having regard to scale, open space, visual appearance, landscaping, and will show how the proposals preserve or enhance the character and appearance of the area. Particular regard will be had to the principles laid down with PPS 1 paragraphs 33 to 39.
- 5.3.7 In terms of enhancing the quality of life and improving the sustainability of the existing settlement evidence will demonstrate that the provision of high speed broad band will be a significant benefit.

#### 5.4 (c) Consistency with PPG2

5.4.1 Matter (c) seeks consideration of *“the extent to which the proposed development is consistent with Government policies in Planning Policy Guidance Note 2: Green Belt - with particular regard to:*

*i) whether the proposed development is inappropriate development in the Green Belt by reference to the guidance in PPG2 and any relevant development plan policies and, if it is inappropriate, whether very special circumstances exist which clearly outweigh the harm to the Green Belt caused by reason of its inappropriateness, and any other harm to justify the grant of planning permission;*

*ii) the extent to which the scheme would be consistent with the purposes of including land in the Green Belt;*

*iii) whether the proposed development would harm the visual amenities of the Green Belt by reason of its siting, materials or design;”*

5.4.2 Evidence will be adduced which demonstrates that the Green Belt around the South West of Bristol has shaped urban growth since its designation during the 1950's. The need for change to this part of the Green Belt arises from draft RSS. Evidence will show that the reasoned justification to develop within the Green Belt at this location has been established within draft RSS and that those reasons are in themselves very special circumstances. Indeed, emerging RSS provides the policy and need justification to “roll back” the Green Belt to deliver the SUE and has invoked a review of Green Belt to establish its new geographic designation.

5.4.3 Beyond the reasoned justification established at the regional level, further very special circumstances will also be referred to which demonstrate that the development at the site outweighs any perceived harm to the Green Belt.

5.4.4 The extent to which the scheme would be consistent with the purposes of including land in the Green Belt will be examined and it will be demonstrated that development will not adversely affect the future permanence of a revised and extended Green Belt to the South West of Bristol and across North areas of Somerset.

5.4.5 It will also be demonstrated that the siting of the development in relation to the site specific physical features the do not give rise to harm to the visual amenities of the Green Belt. Further the use of appropriate landscaping, materials and design will all contribute to the achievement of a high quality development that within a high quality landscape. It will also be demonstrated by reference to landscape evidence that harm to the openness of the Green Belt will be minimised due to the siting of the development.

#### 5.5 (d) Consistency with PPS3

5.5.1 Matter (d) seeks consideration of *“the extent to which the proposed development is consistent with Government planning for housing policy objectives in Planning Policy Statement 3 (PPS3) Housing, with particular regard towards delivering:*

*i) high quality housing that is well-designed and built to a high standard;*

*ii) a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas, both urban and rural;*

*iii) a sufficient quantity of housing taking into account need and demand and seeking to improve choice;*

*iv) housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure;*

*v) a flexible, responsive supply of land - managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate;”*

5.5.2 It is the appellant’s case that the site will deliver high quality housing that is well designed and built to a high standard.

5.5.3 The appellant will adduce evidence that demonstrates that the site is capable of delivering such high quality well-designed housing. Whilst the ultimate design of the dwellings will constitute a reserved matter, nevertheless it will be

demonstrated that the types of dwellings proposed are both needed, and will meet the aspirations of the market in terms of delivery of an appropriate amount of affordable and open market housing ensuring choice.

- 5.5.4 The benefits of the locating development at Failand will be demonstrated in evidence and beyond showing Failand to be a suitable location it will also be demonstrated that the ingredients of the masterplan deliver a good range of community facilities that will help sustain and build the community. It will also be demonstrated how the new facilities forming part of the development will assist in integrating the new development with the existing settlement and will assist in promoting and delivering social cohesion.
- 5.5.5 Evidence will also be adduced in respect of the benefits of small scale local employment provision that will enhance the sustainability of the settlement.
- 5.5.6 It will also be demonstrated that the location of the settlement close to the Strategically Significant City of Bristol and improved interconnectivity with other nearby village settlements within North Somerset enables good access to jobs, key services and infrastructure on wider scale.
- 5.5.7 The appellant's general case is that the proposal must be assessed against the totality of the development plan policies and other material considerations.
- 5.5.8 The Appellant will show that in the absence of an up to date 5 year supply of deliverable housing land the advice given in paragraphs 69 and 71 of PPS3 states that favourable consideration should be given to these proposals in these circumstances. The appellant will also demonstrate by reference to other appeal decisions that the absence of a five year land supply gives rise to further very special circumstances in the context of PPG2 that can make development that might otherwise be considered to be inappropriate development acceptable.
- 5.5.9 Paragraph 68 of PPS3 makes clear that *"Local Planning Authorities should take into consideration the policies set out in Regional Spatial Strategies and Development Plan Documents, as the Development Plan, as well as other material considerations. When making planning decisions for housing developments after 1st April 2007, Local Planning Authorities should have regard to the policies in this statement as material considerations which may supersede the policies in existing Development Plans."* This is such a case

where the policies in the Local Plan have been superseded by PPS3 and emerging RSS having reached an advanced stage of preparation.

5.5.10 The site is deliverable and will contribute to the 5 year supply. It will provide numerous benefits including provision of affordable housing in area of need, and public transport benefits which will result in a step change in public transport accessibility in accordance with the objectives of RSS. It will be demonstrated that this will benefit not only the proposed new development but also the wider settlement at Failand and a number of nearby communities within this part of North Somerset.

5.5.11 The importance of maintaining a good supply of housing land is reaffirmed by Mr Quartermain, Chief Planning Officer of the DCLG who wrote to all Chief Planning Officers in May 2009. The letter re-confirmed the importance that the Government attaches to the identification of a good supply of land for housing and that now is the time to ensure that land supply is in place so that more housing can be delivered as industry returns to health. Strong interest from the house building industry in this site will be demonstrated primarily because it is of a scale that can be brought forward quickly because of absence of prohibitive abnormal infrastructure costs. It will be demonstrated that by comparison with other large urban extensions the more modest proposals at Failand will be capable of delivery quickly and without the attendant difficulties associated with delivering adequate infrastructure that can cause significant delay and in recent economic conditions can adversely affect housing delivery.

#### 5.6 (e) Consistency with PPG13

5.6.1 Matter (e) seeks consideration of *“the extent to which the proposed development is consistent with the advice in Planning Policy Guidance note 13: Transport, in particular on the need to locate development in a way which helps to promote more sustainable transport choices; promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling; reduce the need to travel, especially by car and whether the proposal complies with local car parking standards and the advice in paragraphs 52 to 56 of PPG13.”*

5.6.2 The transport factors that influenced bringing forward these proposals in this location will be assessed and it will be demonstrated that the proposals are soundly based on sustainable transport principles.

5.6.3 The existing transport options available to residents and visitors to Failand will be examined. It will be demonstrated that the range of transport measures delivered as a result of this development will enhance the current transport choices available to the local community making Failand a sustainable place to live, work and enjoy recreation whilst also providing easy access to the Strategically Significant City of Bristol thus offering access to jobs, leisure and essential community infrastructure. The measures that will be delivered as part of a Travel Plan will reduce the reliance on the private car, significantly enhance public transport to and from Failand and will encourage the modal shift away from the private car.

#### 5.7 (f) Planning Obligations

5.7.1 Matter (f) seeks consideration of *“whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.”*

5.7.2 This matter is addressed in section 6 below.

#### 5.8 (g) Planning Conditions

5.8.1 Matter (g) seeks consideration of *“whether any permission should be subject to any conditions and, if so, the form these should take.”*

5.8.2 This matter is also addressed in section 6 below.

#### 5.9 (h) Other relevant matters

5.9.1 Matter (h) In addition to the above matters, the Appellant will adduce evidence on the following matters:

##### **Deliverability and Viability**

5.9.2 In accordance with PPS 3 Housing, evidence will be adduced which demonstrates that the site is deliverable, commercially viable and will be able to deliver new homes and the community infrastructure in a timely manner thus enabling the successful early delivery of RSS objectives.

5.9.3 Reference will also be made to the potential under delivery of the other part of the SUE at referred to as "Ashton Park". Evidence will draw upon the Council's own assumptions based on professional advice in this regard. It will be demonstrated that the proposals at Failand are a necessary part of the successful delivery of the emerging RSS.

### **Ecology**

5.9.4 Evidence will demonstrate that the proposals conform with the requirements of relevant legislation and planning policy and do not give rise to any significant harm in respect of ecological matters. Moreover, the evidence will demonstrate that the proposals will deliver ecological benefits, particularly as a result of the landscape management proposals.

### **Landscape & Visual Impact**

5.9.5 Evidence will demonstrate that the proposals can be satisfactorily assimilated into the landscape and that benefits accrue as a result of the significant landscape enhancement measures proposed.

### **Education**

5.9.6 Evidence will demonstrate that the proposals meet the requirements of the Local Education Authority for primary school places with sufficient land reserved within the scheme for such use and thereafter delivery of an on site facility or commensurate provision off site as determined by the statutory requirements organised by the Local Education Authority either of which will be secured by way agreement with the Council.

### **Statement of Common Ground**

5.9.7 The matters referred to below will be the subject of reference within the Statement of Common Ground circulated separate to this Statement of Case.

5.9.8 It is envisaged that the following matters will be agreed with the Council and therefore it is presently anticipated that evidence will not be adduced on these matters. However should the council raise objection in respect of the same the appellant wishes to reserves the right to advance evidence in regard of the following:

- Flood Risk and Drainage Assessment

- Archaeological Appraisal
- Arboriculture Assessment
- Hedgerow Appraisal
- Services and Utilities Statement
- Site Investigation
- Renewable Energy and Sustainability

## **6 PLANNING CONDITIONS AND SECTION 106 OBLIGATIONS**

### **6.1 Planning Conditions**

6.1.1 A list of suggested conditions, should the Inspector be minded to allow the Appeal, will be prepared jointly with the Local Planning Authority. A request for such a list to be produced has been sent to the Council on 30<sup>th</sup> December 2009, their response is awaited. It is envisaged that the list of reasonable and appropriate planning conditions can be incorporated into the Statement of Common Ground. Any conditions that are not agreed will be a matter for discussions at the inquiry.

### **6.2 Planning Obligations**

6.2.1 The Council has issued a draft list of "Heads" for the Section 106 Agreement without specified "Terms" and these relate to the following matters:-

- 1) Primary School
- 2) Transport
- 3) Travel Plan
- 4) Highways
- 5) Affordable Housing
- 6) Public Open Space
- 7) Landscape Management Plan
- 8) Library
- 9) Public Art
- 10) Health

6.2.2 A Section 106 Agreement or Unilateral Undertaking will be prepared and it is our intention that this be submitted in advance of the Inquiry.

## 7 LIST OF DOCUMENTS TO WHICH THE APPELLANT MAY REFER

1. The application supporting documentation
2. Any Officers Report
3. Any minuted resolution of NSC
4. The consultation responses of statutory and non-statutory consultees and third-parties
5. National Planning Guidance Notes and Statements
6. Circular 01/2006
7. Regional Planning Guidance (RPG10) (2001)
8. Draft South West RSS (June 2006) (including the core documents evidence base)
9. South West RSS EiP Report (January 2008)
10. The Draft Revised Regional Spatial Strategy for the South West incorporating the Secretary of State's Proposed Changes - for Public Consultation (July 2008)
11. SWRA - Strategic Green Belt Review - Final Report (February 2006)
12. Joint Replacement Structure Plan (JRSP) (September 2002)
13. Joint Local Transport Plan (JLTP) December 2006 (Avon Area)
14. Secretary of State's Saving Direction (September 2007)
15. North Somerset Replacement Local Plan (RLP) (Adopted 2007)
16. North Somerset Core Strategy - Issues and Options (October 2007) (and related evidence base)
17. NSC AMR (Base Date April 2008/9)
18. NSC SHLAA (December 2008)
19. Various material Appeal Decisions
20. DfT DMRB TA 79/99 'Traffic Capacity of Urban Roads'
21. DfT DMRB TA 22/81 'Vehicle Speed Measurement on All Purpose Roads'
22. DfT DMRB TD 42/95 'Geometric Design of Major/Minor Priority Junctions'
23. DfT Circular (01/2006) 'Setting Local Speed Limits'
24. DfT 'Manual for Streets'
25. DfT 'Guidance on Transport Assessments'
26. IHT 'Guidelines for Planning for Public Transport in Developments'
27. DfT 'Good Practice Guidelines: Delivering Travel Plans Through the Planning Process' (April 2009)
28. DfT 'Making Residential Travel Plan Work: Good Practice Guidelines' (2005).
29. "A New Deal for Transport: Better for Everyone" (July 2008)
30. Safer Places in the Planning System & Crime Prevention (ODPM 2004)
31. By Design: Urban Design in the Planning System - Towards Better Practice (2000)
32. By Design: Better Places to Live (2001)

33. Actions for Housing Growth: Creating a Legacy of Great Places (2007)
34. Urban Design Compendium 1 (English Partnerships, Housing Corporation 2000)
35. Inclusive Mobility: A Guide to Best Practice (DT 2002)
36. The Value of Good Design (CABE 2002)
37. Shaping Neighbourhoods (Barton, Grant & Guise 2003)
38. Planning & Access for Disabled People; A Good Practice Guide (ODPM 2005)
39. The Principles of Inclusive Design (CABE 2006)
40. Best Practice in Urban Extensions and New Settlements (2007 CLG TCPA)
41. Sport England Active Design (Sport England 2007)
42. Urban Design Compendium 2 (English Partnerships, Housing Corporation 2007)
43. The Hedgerow Regulations 1997 - a Guide to the Law and Good Practice (DETR)
44. BS 5837:2005 Trees in Relation to Construction
45. Standard Guidance for Archaeology Desk-Based Assessment - Institute of Field Archaeologists (2001)
46. Guidelines for Landscape and Visual Impact Assessment (GLVIA) - Landscape Institute and the Institute of Environmental Management and Assessment (2002)
47. Landscape Character Assessment Guidance for England and Scotland" (LCA) - Countryside Agency and Scottish National Heritage (2002)
48. Wildlife and Countryside Act 1981 (as amended)
49. Conservation (Natural Habitats &c.) Regulations 1994
50. Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora
51. Institute of Ecology and Environmental Management (2006) *Guidelines for Ecological Impact Assessment in the United Kingdom* (version 7 July 2006). <http://www.ieem.org.uk/ecia/index.html>

The Appellant reserves the right to refer to other documents as necessary, including any LDF documents or monitoring reports that the Council might produce before the Inquiry.