



Section 52: Obtaining information about interests in land (Planning Act 2008)

Advice note four: Section 52

Status of this Advice Note

This version of advice note 4 supersedes all previous versions and includes revisions made in response to emerging best practice on projects.

Summary of this Advice Note

This note sets out advice on how a person ('the applicant') who proposes to make, or who has made a Development Consent Order ('DCO') application under the Planning Act 2008, as amended ('the 2008 Act') may apply for authorisation to serve a written notice ('a land interests notice') which requires the recipient to provide information to the applicant about interests in land under s.52 of the 2008 Act.

The land interests notice may be served at the pre-application stage or after a DCO application has been submitted to the Secretary of State. Failure to comply with a land interests notice has serious consequences¹ and may give rise to criminal liability².

The purpose of s.52 authorisation is to enable the Secretary of State to grant authorisation to an applicant to serve a land interests notice on a specified person, included within a category of persons set out in s.52(3), requiring them to give to the applicant in writing the name and

¹ s.52(6) of the 2008 Act

² s.52(9) of the 2008 Act

Please note: This advice note refers to annexes which can be viewed at:

<http://infrastructure.planningportal.gov.uk/legislation-and-advice/our-guidance-and-advice/>



address of any person the recipient believes is one or more of the persons who falls within specified categories³.

Before seeking authorisation under s.52 of the 2008 Act, applicants should be aware of the expectation that they have acted reasonably, through demonstrating that they have first sought to obtain the relevant information from the proposed recipient and that they consider that they have been unreasonably refused that information.

Applicants should seek their own legal advice on which they can rely, on how to demonstrate that they have met both the requirements under s.52 of the 2008 Act and the intensions set out in the DCLG Guidance⁴, in their particular circumstances.

The authorisation request should be made to the Major Applications and Plans Directorate of the Planning Inspectorate, on behalf of the Secretary of State. Contact details are provided at the end of this advice note under 'Further information'.

³ These category of persons are identified in s.52(2)(a),(b) or (c), or in s.52(2A). S.52(2), s.52(2A) and s.52(3) must also be interpreted having regard to s.52(10) to s.52(14) of the 2008 Act

⁴ Department for Communities and Local Government - Planning Act 2008: The Infrastructure Planning (Fees) Regulations 2010 Guidance (June 2013) (the 'DCLG Guidance')

Contacting the Planning Inspectorate before requesting authorisation to serve a land interests notice

Applicants are strongly encouraged to contact the Planning Inspectorate at least four weeks in advance of submitting any s.52 authorisation request(s). The Planning Inspectorate can provide advice as to the evidence that the applicant needs to provide, the likely number of authorisation requests, as well as details on the fees and how these should be paid.

Fees

The current fee payable is £1,000 per request⁵. Fees are payable by BACS payment. Please contact the Planning Inspectorate to obtain these payment details (see contact details at the end of this advice note).

The Planning Inspectorate will confirm receipt of the request(s) for authorisation. Non-payment of the fee(s) due will delay the process because the Secretary of State need not consider the request(s) until the correct payment is received⁶.

Please note that if an authorisation request is subsequently withdrawn, by the applicant after submission, a refund will not be provided.

⁵ Regulation 3(1)(a) of The Infrastructure Planning (Fees) Regulations 2010 (SI 2010/106) (as amended) ('the Fees Regulations')

⁶ Regulation 3(3) of the Fees Regulations



Number of authorisation requests

The fee payable by the applicant is determined by the number of authorisation requests submitted. The Planning Inspectorate has discretion to determine the number of authorisation requests made by the applicant⁷.

As a general rule and having regard to the DCLG Guidance⁴, the Planning Inspectorate will treat each land parcel representing a registered title or area of unregistered land as constituting a single s.52 authorisation request.

However, there may be occasions where the applicant considers that a s.52 authorisation request, containing more than one land parcel, should be treated as a single authorisation request. This may include situations where the applicant is of the opinion that land ownership has been subdivided specifically for the purpose of creating the need for multiple requests, or where multiple parcels of land are held by the same landowner(s) and these parcels of land are sufficiently neighbouring each other. Where this applies, the applicant should provide justification to the Planning Inspectorate as to why one fee would be appropriate, taking into account how all the land parcels relate to each other and the complexity of the titles.

⁷ DCLG Guidance, Annex A, Paragraph 3, page 8

Information to be provided with the s.52 authorisation request(s)

There is no prescribed application form to request authorisation from the Secretary of State to serve a land interests notice. The s.52 authorisation request should be made by letter.

The Secretary of State has to be satisfied that the applicant has a genuine need to obtain information about interests in land in relation to a project which requires development consent. The list below summarises the information to be provided to the Secretary of State:

- contact details for the applicant or the agent acting on behalf of the applicant;
- an explanation why authorisation is needed to enable the applicant to comply with their pre-application consultation duties⁸ or the requirement to notify persons of an accepted application⁹;
- a description of the project requiring development consent;
- information identifying the proposed recipients and where an agent acts on behalf of any of the proposed recipient(s), confirmation of their authorisation;
- plans identifying the land for which information about interests is sought including up-to-date official copies of the registered title and title plans and/or a copy of a certificate of the result of search of the index map in relation to any unregistered land (including the

⁸ Under Chapter 2 of part 5 of the 2008 Act
⁹ Under Chapter 1 of part 6 of the 2008 Act



map submitted to the Land Registry to undertake the search);

- information to demonstrate that the applicant has acted reasonably and has been unreasonably refused the information sought;
- information to demonstrate reasonable efforts and that the applicant has notified the proposed recipients that a request for s.52 authorisation has been made to the Secretary of State; and
- the duration for which s.52 authorisation is sought.

The above information is explained in further detail in the following sections of this advice note.

1. Contact details

The full name, address, telephone number and email address of the person or organisation making the request(s) should be provided. Where the application is being made by an organisation, a named point of contact within that organisation should be given and, in such a case, if the authorisation is granted, the organisation itself will be the 'person authorised' to serve a land interests notice.

If the authorisation request is being made by an agent acting on behalf of the applicant, the same information as requested above, should be provided for both the applicant and the agent.

2. Request for authorisation must be linked to a project requiring development consent

Authorisation can only be granted where the applicant is applying, or proposes to apply for an order granting development consent, and where the purpose of the authorisation request is to enable the applicant to comply with the provisions of, or made under, Chapter 2 of Part 5 of the 2008 Act (pre-application procedure) or Chapter 1 of Part 6 of the 2008 Act (procedure following acceptance of the application)¹⁰.

An explanation should be provided by the applicant as to how service of a land interests notice will enable compliance with the pre-application consultation duties¹¹, or the requirement to notify persons of an accepted application, and to give notice to persons interested in land to which a compulsory acquisition request relates¹². It will be for the applicant to seek their own legal advice as to how to best address these matters.

¹⁰ The applicant has a duty under s.42 of the 2008 Act (before submitting a DCO application) to notify and consult, amongst others, certain persons such as owners, lessees, tenants or occupiers of the land to which the proposed DCO application relates. If a DCO application is accepted by the Secretary of State there is a further duty on the applicant (s.56(2)) to notify certain persons of the accepted application. If the accepted DCO application includes a request to authorise the compulsory acquisition of land (or an interest in, or right over the land) the applicant must also give to the Secretary of State a notice which specifies the names of persons interested in the land to which the compulsory purchase acquisition request relates (s.59(2))

¹¹ Under chapter 2 of part 5 of the 2008 Act

¹² Under chapter 1 of part 6 of the 2008 Act



3. Description of the project requiring development consent

The following should be provided:

- in cases where an application has not yet been submitted: a description of the proposed nationally significant infrastructure project (NSIP) and any associated development, or
- where an application for a DCO has been accepted: the reference number of the application.

4. Identifying the proposed recipients

Under s.52, the Secretary of State has the power to authorise an applicant to serve a notice on a specified person ('the recipient'), included within a category of persons set out in s.52(3), requiring them to give to the applicant in writing the name and address of any person the recipient believes is one or more of the persons who falls within specified categories¹³.

The applicant should identify in their authorisation request the name and address of the proposed recipients and which category identified in s.52(3) those proposed recipients, on whom they are seeking authorisation to serve a land interests notice, fall within. This information should be provided in a table, referred to as 'the Table'. Where more than one parcel of land is included within the s.52 authorisation request(s), the applicant should, in the Table, identify for each parcel of land, the proposed

¹³ These category of persons are identified in s.52(2)(a), (b) or (c), or in s.52(2A). S.52(2), s.52(2A) and s.52(3) must also be interpreted having regard to s.52(10) to s.52(14) of the 2008 Act

recipients and which category in s.52(3) they fall within.

A suggested format for the Table is included at [Annex A](#).

The applicant should also explain in the authorisation request(s), how each proposed recipient has been identified. This should include:

- for registered land parcels: up-to-date¹⁴ official copies of the registered title and title plan, and
- for unregistered land parcels: evidence to demonstrate that the land is unregistered, such as an up-to-date¹⁵ copy of a certificate of the result of search of the index map in relation to the land (including the map submitted to the Land Registry to undertake the search). The applicant should also provide evidence to demonstrate how the proposed recipient(s) were identified as having an interest in this unregistered land, for example, written confirmation from the proposed recipient or a record of a meeting in which the person confirmed their interest in the land.

¹⁴ The Planning Inspectorate as a rule of thumb, expects the date on the official copies to not exceed 3 months from the day on which the s.52 authorisation request(s) were submitted to the Secretary of State

¹⁵ The Planning Inspectorate as a rule of thumb, expects the date on the certificate of the result of the search of the index map to not exceed 3 months from the day on which the s.52 authorisation request(s) were submitted to the Secretary of State



5. Plans to accompany the Table, identifying the land for which information about interests is sought

The land for which information about interest is sought must be land to which the application, or proposed application, relates, or any part of that land¹⁶.

A plan, marked as 'Plan A', should be provided showing the following information:

- outlined in red: the extent of the development and works¹⁷,
- identified in blue: any land owned or under the control of the applicant, or confirmation should be provided that there is no land owned or under the control of the applicant shown on Plan A,
- identified in green: land for which information about interests are sought, if subsequently authorised by the Secretary of State, and
- where non-statutory site notices/requisition notices have been used to identify persons with an unknown interest in the land: the location of any site notices, and the land to which letters/requisition notices that have been served relates should be shown on 'Plan A', if applicable (please refer to **Section 7** of this advice note for further information about site notices/requisition notices).

¹⁶ s.52(10) of the 2008 Act

¹⁷ The works plan (required under regulation 5(2)(j) the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (SI 2264)(as amended)), must also show this information

Plan A should be no larger than AO size, drawn to an identified scale (not smaller than 1:2500) and show the direction of north.

Where any part of the land identified in green on Plan A is registered, the boundary of the registered title number(s) should be clearly shown on Plan A and allocated a parcel number. The allocated parcel number(s) and registered title number(s) should be clearly cross-referenced to the Table, and up-to-date official copies of the registered title and title plans should be provided to the Planning Inspectorate. The Planning Inspectorate expects the boundary of the registered title numbers, as shown on Plan A, to match exactly the boundary of the title number as shown on the registered title plan. Where this is not the case the Planning Inspectorate may seek clarification from the applicant and/or the proposed recipients.

Where any part of the land identified in green on Plan A is unregistered, the boundary of the unregistered land should be clearly shown on Plan A and allocated a parcel number. The allocated parcel number(s) should be clearly identified on the Table and a clear description of the parcel area by reference to the boundary and any physical features provided. OS grid references for each parcel of unregistered land should be included in the Table.

Where the full extent of land required for, or affected by, the proposed development¹⁸ cannot be identified on a single 'Plan A' due to the size

¹⁸ For example, the land plan, as required under regulation 5(2)(i) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (SI 2264) (as amended), must show this information and could be used as a base for Plan A



of the proposed development, a 'Key Plan' should be provided. The Key Plan should identify the full extent of land required for, or affected by, the proposed development and the location of the land parcel(s) for which authorisation is sought.

6. Intentions of s.52 – applicant has acted reasonably and has been unreasonably refused the information sought

Whilst there is no statutory test in respect of the efforts that the applicant should make to obtain information about interests in the land from the proposed recipient(s) prior to making a s.52 authorisation request to the Secretary of State, DCLG Guidance⁴ states, at paragraph 3 of Annex A, that the intention in respect of s.52, is that '*Where an applicant is refused information...they can submit a request to the Secretary of State who can require that the information...is to be provided*'.

The DCLG Guidance states, at paragraph 3 of Annex A, that '*Applicants are expected to act reasonably, first seeking to obtain relevant information...directly before seeking authorisation under these provisions. Specifically, applicants should only submit requests for those aspects of information... where they consider they have been unreasonably refused that information*'.

Therefore, it is expected that an applicant will demonstrate that reasonable efforts have been made to obtain information about interests in the land identified in green on Plan A prior to making the s.52 authorisation request(s) to the Secretary of State, and

explain why in their opinion, they have been unreasonably refused that information.

7. Demonstrating that the applicant has acted reasonably and has been unreasonably refused the information sought

To demonstrate that the applicant has undertaken reasonable efforts to obtain this information by agreement, it is expected that, wherever possible, there will have been an exchange of correspondence and dialogue over several months between the applicant and the proposed recipient(s) in an attempt to obtain the information about the interests in land, prior to making the s.52 authorisation request(s). Where dialogue has occurred over a short period of time, prior to the applicant making an s.52 authorisation request, the applicant should explain in their covering letter why they consider that they have been unreasonably refused this information, given the short timeframe to reach agreement with the proposed recipient(s).

Depending on the circumstances of the case, appropriate measures to identify and negotiate with the proposed recipient(s) could include writing letters to, or serving non-statutory requisition notices¹⁹ ('requisition notices') on, persons whom the applicant believes may have a relevant interest in the

¹⁹ Providing letters or non-statutory requisition notices is suggested as a means of demonstrating the applicant's reasonable efforts to obtain information about interests in the land. This is not intended to prescribe a particular approach to demonstrating reasonable efforts. The applicant may also choose to communicate by other forms of media such as telephone, fax or email



land, which ask the proposed recipient(s) to provide to the applicant information about interests in the land. Where persons with relevant interests in the land are unknown, appropriate measures may include displaying site notices and/ or publishing notices in newspaper(s) circulated in the area to which the s.52 authorisation request(s) relate. The diligent inquiry undertaken by the applicant in order to identify the proposed recipient(s) should be explained in the authorisation request(s).

Where an applicant has written letters to, or served requisition notice(s) on, persons they believe have an interest in the land to which the proposed s.52 request(s) relate, copies of such letters/requisition notices should be provided to the Planning Inspectorate along with any plans or attachments referred to in the letters/requisition notice(s). Copies of any responses received from the recipients should also be provided.

Where an applicant has posted non-statutory site notices and/or published notices in newspaper(s) seeking to obtain information about interests in land, copies should be provided to the Planning Inspectorate along with details of when and where these notices were displayed and/or published in the newspaper(s). Confirmation should also be provided that the newspapers' circulation covers a geographical area which includes the land for which information about interests are sought. To ensure consistency and clarity, it should be clear to which allocated parcel number(s) on Plan A, the notices relate.

8. Presentation of evidence to demonstrate reasonable efforts

The applicant should provide the Planning Inspectorate with one hard copy and one electronic copy of each s.52 authorisation request, which should include the same information. The information provided on the electronic copy should not be protected nor encrypted. The hard copy of each request should be provided in a separate A4 folder.

The authorisation request(s) cover letter should identify where the information provided to support the applicant's authorisation request(s) can be found within each folder. This should be by reference to a specific 'Tab' within each folder. Where more than one authorisation request is made, which share common documents, the applicant may wish to consider producing a separate core document folder and cross-referencing all of the authorisation requests to this one folder, to avoid duplication of the information.

To assist the Planning Inspectorate and Secretary of State in reviewing the authorisation request(s) the applicant should provide a schedule ('the Schedule of Correspondence') setting out any correspondence between the applicant and the proposed recipient(s) and including the following information:

- any relevant letters, meeting and telephone notes, and
- the dates that the correspondence was sent and received.

Any documents referred to in the



correspondence provided within the Schedule of Correspondence should also be provided to the Planning Inspectorate. Where these documents have not been provided, the Planning Inspectorate will ask for copies, which may delay determination of the authorisation request(s).

9. Corresponding with more than one proposed recipient

Where there is more than one proposed recipient for any authorisation request, but the applicant has only been corresponding with one person, the applicant should provide written evidence that this individual is authorised to act on behalf of all identified proposed recipients.

Likewise, if the applicant has been corresponding with an agent for any land parcel, written evidence should be provided to confirm that the agent is authorised to act on behalf of the proposed recipient(s).

This evidence may take the form of correspondence from all of the proposed recipients confirming that the agent / specific person has authority to act on their behalf, or correspondence from the agent / specific person confirming that they have authority to act on behalf on all of the proposed recipients.

10. Consulting and notifying the proposed recipient(s) following submission of the s.52 authorisation request(s)

There is no requirement under s.52 for the Secretary of State to consult the proposed recipient(s) of a land interests notice.

However, the Planning Inspectorate expects the applicant to send a notification letter enclosing an exact copy of the authorisation request, that was provided to the Planning Inspectorate, to each of the proposed recipient(s) identified by the applicant in the Table (and copied to agents acting on the recipient(s) behalf (if applicable)).

Each proposed recipient listed in the Table should receive a separate copy of the documentation, even if the Proprietorship Register of the relevant registered Title Number identifies that two or more of them are registered at the same address. This is to ensure that each recipient has been sent a copy of the notification letter with the enclosed authorisation request. Copies of these notification letters should be provided to the Planning Inspectorate, preferably included with the authorisation request. However, if these notification letters are sent at the same time as the authorisation request is made to the Secretary of State, these should be forwarded to the Secretary of State as soon as possible.

If the land is registered, a copy of the authorisation request should be sent to the address of the proposed recipient(s) as identified in the Proprietorship Register of the relevant registered Title Number; where the applicant has sent correspondence to an address which is different from the address identified on the Title, the applicant should explain why in the authorisation request letter.

Applicants should note that the Planning Inspectorate may request evidence to



demonstrate that these notification letters were delivered, for example, where the proposed recipient(s) dispute receipt of the notification letter. Therefore, applicants should consider how this evidence may be provided, which may include providing copies of signed delivery receipts, where the applicant has sent the notification letters by recorded or special delivery.

The applicant should state in their notification letter to the proposed recipient(s), that they may provide comments on the s.52 authorisation request to the Planning Inspectorate by the deadline specified in the notification letter, which should not be less than 21 days starting the day after the expected date of receipt of the notification letter by the proposed recipient(s). The Planning Inspectorate will also write to the proposed recipient(s) to confirm that an authorisation request has been made by the applicant to the Secretary of State and to confirm the date by which comments should be made by the proposed recipient(s) to the Planning Inspectorate.

The Planning Inspectorate will assume that the proposed recipient(s) do not have any comments to make on the s.52 authorisation request, if the Planning Inspectorate has not received any comments from them, by the date specified in the applicant's notification letter.

11. Duration of s.52 authorisation

It is anticipated that authorisation, if granted, would in most cases be expressed to expire either 12 months after the date of the authorisation, or, if made during

the pre-application stage, the date of the submission of a DCO application for the proposed development pursuant to s.37 of the 2008 Act (where the submission of the DCO application is earlier than the expiry of that 12 month period).

If the applicant wants the authorisation period to exceed 12 months, or the submission date of the DCO application to the Secretary of State, the applicant should request this in their covering letter providing a clear explanation of the reasons why. The Secretary of State may then take this into consideration when determining the duration of the authorisation notice, if the Secretary of State is minded to grant authorisation.

12. Check list

Enclosed in [Annex B](#) is a s.52 check list which the applicant should complete to help ensure that the relevant information is provided to the Planning Inspectorate. The completed check list should be provided to the Secretary of State for each s.52 authorisation request.

13. Timeframe for determination of the s.52 authorisation requests

There is no prescribed timeframe within which the Planning Inspectorate should make a recommendation, or for the Secretary of State to determine the request for s.52 authorisation. However, following the opportunity for the proposed recipient(s) to comment on the proposed authorisation request and, if the Planning Inspectorate considers it appropriate, for the applicant to respond to any comments made, the Planning Inspectorate will either request



further information (please refer to Section 14 of this advice note) or the Planning Inspectorate will immediately move to make a recommendation to the Secretary of State.

Whilst there is no prescribed timeframe for determination of s.52 authorisation requests, experience gained by the Planning Inspectorate, indicates that s.52 authorisation requests take on average 3 months to determine, from the date of receipt of the authorisation request. However, this timeframe can only be a guide and depends on the complexity and number of authorisation requests, the sufficiency of the information provided by the applicant and any issues raised in responses from the proposed recipient(s). Applicants will need to be aware of this anticipated timeframe and the potential impact it may have on their overall project programme.

14. Request for further information

The Planning Inspectorate may request further information from the applicant and/or the proposed recipient(s) to clarify any comments provided to the Planning Inspectorate.

Where the Planning Inspectorate has requested further information, the Planning Inspectorate will specify a deadline by which this information must be provided, which will not be less than 21 days starting the day after the expected date of receipt of that request by the person to whom it is addressed. Immediately following the expiration of this date, subject to any subsequent requests for further information,

the Planning Inspectorate will move to make a recommendation to the Secretary of State.

Therefore, the applicant and/or the proposed recipient(s) are advised to provide any comments they wish to make by the specified deadline to ensure that they are considered by the Planning Inspectorate and the Secretary of State.

15. Recommendation and Determination of the s.52 authorisation request(s)

Following receipt of sufficient information to make a recommendation to the Secretary of State, the Planning Inspectorate will produce a Recommendation Report for the Secretary of State. The Secretary of State will then review this Recommendation Report and take into consideration any information provided by the applicant and the proposed recipient(s) by the specified deadlines, and determine the authorisation request(s).

Following determination by the Secretary of State, the Planning Inspectorate will send a copy of the determination to the applicant and the proposed recipient(s) either authorising service of a land interests notice, or refusing the request with reasons. The authorisation request and all correspondence received from the applicant and the proposed recipient(s) will be published on the Planning Inspectorate's website, along with the Planning Inspectorate's Recommendation Report and the Secretary of State's decision.



16. Exercising the authorisation

If authorised by the Secretary of State, a land interests notice must be in writing and must²⁰:

- state that the Secretary of State has authorised the applicant to serve the notice,
- specify or describe the land to which the application, or proposed application relates,
- specify the deadline by which the recipient must give the required information to the applicants, and
- draw attention to the provisions in subsections (6) to (9) of s.52 relating to offences.

The Planning Inspectorate will neither provide nor approve a draft form of land interests notice. It is the responsibility of the authorised person to ensure that any land interests notice satisfies all legal requirements.

²⁰ s.52(4) of the 2008 Act

It is an offence for a person to provide in response to a land interests notice information which is false in a material particular, and the person knows or ought reasonably to know that the information is false²¹.

The Planning Inspectorate will not be responsible for ensuring compliance with any s.52 authorisations issued by the Secretary of State.

17. Data protection

Any personal information relating to third parties provided by the applicant to the Planning Inspectorate will be handled by the Planning Inspectorate in accordance with its obligations under the Data Protection Act 1998 and therefore will not be made available on the Planning Inspectorate's website.

It will be for the applicant to seek their own legal advice as to how to best address the identification and processing of personal information.

²¹ s.52(7) of the 2008 Act

Review of this advice note

The Planning Inspectorate will keep this advice note under review and will update as appropriate.

Further information

The Planning Inspectorate, Major Applications and Plans Directorate, Temple Quay House, Temple Quay, Bristol BS1 6PN

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