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## Appeal Decision

Site visit made on 3 June 2025

**by E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21<sup>st</sup> August 2025

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**Appeal Ref: APP/D1590/W/24/3352482**

**32 Sandleigh Road, Leigh-on-Sea, Southend-on-Sea SS9 1JU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission.
  - The appeal is made by Mr Andrew Kinder against the decision of Southend-on-Sea Borough Council.
  - The application Ref is 24/00277/FUL.
  - The development proposed is the demolition of existing garages (demolished to date) and erect new single family dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garages (demolished to date) and erect new single family dwelling at 32 Sandleigh Road, Leigh-on-Sea, Southend-on-Sea SS9 1JU in accordance with the terms of the application, Ref 24/00277/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

### Preliminary Matters

2. A revised National Planning Policy Framework was published on 12 December 2024. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.
3. It is noted that an incorrect description of development was included on the Council's decision notice for the original permission<sup>1</sup>. The Council have confirmed that this was a typographical error. Consequently, as part of this appeal, the appellant requested that planning permission was granted afresh with the correct description of development included. It was therefore considered that to achieve this the appeal would need to be converted from an appeal against conditions to a full application under section 78 of the Town and Country Planning Act 1990, which was agreed by both parties.
4. However, converting the application would cause prejudice to any third parties who may have or have not responded to the consultation, as the description of development was incorrect, and they would lose their opportunity to comment unless a further consultation was put in place. As such, the Council reconsulted third parties by issuing an amended appeal notification letter with the correct description of development which required the submission of comments by 8

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<sup>1</sup> 24/00277/FUL (the original permission)

August 2025. The correct description of the development that was proposed is outlined in the banner heading above.

5. As the incorrect description of development was due to a typographical error by the Council only, during the application process the Council assessed the development proposed as outlined within the submitted plans. This is detailed within the Council's report, which shows a two-storey dwelling was considered rather than a single storey property. The Council found no conflict with the development plan and planning permission was granted for the proposed development. The development proposed in the appeal before me is identical to that which was approved under the original permission.
6. The Council have confirmed that the change to the description of development is not considered to materially change their assessment of the proposed development or the merits of the case. Therefore, as there is no conflict between the appellant and the Council, there are no main issues as part of this appeal and planning permission should be granted for the development proposed. This is subject to conditions which I will discuss below, taking into account the conditions previously imposed by the Council on the original permission and comments from the appellant regarding these in their appeal statement.
7. The Council's appeal statement relates to a revised Community Infrastructure Levy (CIL) demand notice<sup>2</sup> dated 13 September 2024. However, this is not relevant to the appeal before me which, as outlined by the appellant within their appeal statement, relates solely to the description of the development proposed and the conditions imposed on the original permission.

### **Conditions**

8. In addition to the standard time period for commencement of the development, I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision. Furthermore, a condition requiring external facing materials to match those detailed on the relevant plan has been included, to ensure an appropriate appearance for the development.
9. Conditions have been included, as per the original permission, requiring details of renewable energy sources and water efficient design measures to be submitted for approval, to ensure the delivery of sustainable development in accordance with Policy KP2 of the Southend on Sea Core Strategy (2007) and Policy DM2 of the Southend on Sea Development Management Document (2015).
10. To reduce the impact of the proposed development on the living conditions of the occupiers of the neighbouring dwellings, conditions have been included that restrict the hours of the construction works which can take place on the appeal site and that require compliance with a submitted demolition and construction management plan, in the interest of noise and disturbance. Conditions have also been included preventing the use of the roof of the single storey rear projection as a balcony and requiring an obscure glazed window on the side elevation, both in the interest of privacy.
11. Conditions have also been included to ensure the provision of off-street car parking to the front of the dwelling, as shown on the submitted plans, in the

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<sup>2</sup> 24/00277/FUL/0001 (CIL demand notice)

interest of highway safety, and to ensure internal storage space is provided within the proposed dwelling, in the interest of the living conditions of the future occupiers of the property.

12. I have not included a condition relating to hard and soft landscaping on the appeal site, which was previously implemented on the original permission, as the existing hardstanding to the front is to be retained for parking and, due to the scale and nature of the appeal site, further details regarding landscaping in the rear garden are not necessary. I have also not included a condition which was imposed on the original permission, requiring the development to comply with building regulation part M4(2) as this is not relevant to planning and is covered by other regulatory requirements.
13. A condition in the original permission requiring the submission of details relating to surface water drainage is not necessary as there is no evidence to indicate that the site is located in an area at risk of surface water flooding and the site is already largely covered by hardstanding. Furthermore, a condition in the original permission requiring the submission of details relating to the provision of secure and enclosed refuse, recycling and cycle storage has also not been included as, due to the scale and nature of the proposed development, this is not considered to be necessary. The submitted plans show that such storage can easily be accommodated to the rear of the property in the interests of visual amenity.
14. Lastly, paragraph 55 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Such a condition was imposed on the original permission in the interests of neighbour amenities, however, I am not convinced that this provides the clear justification necessary to do so. Therefore, it has not been sufficiently demonstrated that there is 'clear justification' for the removal of permitted development rights as set out in the Framework. As such, a condition in this regard is not considered to be necessary and has not been imposed.

### **Other Matters**

15. It has been highlighted within the Council's report that the appeal site falls within the Zone of Influence for one or more European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS). The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of this European site. The effects arising from the proposal need to be considered in combination with other development in the area, adopting a precautionary approach.
16. The development would result in an additional dwelling with a consequent increase in the number of local residents living within the Zone of Influence for this European site. This would be likely to result in additional recreational activity in these areas. Therefore, the proposed development is likely to have a significant effect on this European site. As the competent authority, it is necessary for me to conduct an Appropriate Assessment (AA) in relation to the effect of the development on the integrity of the European site identified.
17. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of a European site, such as that

identified above. I may consider measures to secure mitigation with a view to ensuring that the proposal would not adversely affect the integrity of the site. The Essex Coast RAMS provides strategic mitigation measures to address this impact, with financial contributions at a specified tariff per dwelling collected from new development to fund this mitigation.

18. A payment has been made to the Council by the appellant in relation to this contribution and therefore, given the evidence before me, I am satisfied that the mitigation measures have been secured and would be used for their intended purpose. The contribution would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contribution towards the mitigation schemes would count as mitigation towards maintaining the integrity of the sites. I therefore find within my AA that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the European Site. The development would therefore comply with the Habitats Regulations.
19. In their appeal statement, the appellant has requested that should planning permission be granted afresh, that they are informed beforehand so they can submit a commencement notice in relation to CIL liability. However, it is not possible to inform appellants of the outcome of their appeal before the decision is formally issued.

### **Conclusion**

20. For the reasons given above, the appeal is allowed.

*E Grierson*

INSPECTOR

## SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawings no. SANDLEIGH HOUSE 01/07APP and Location Plan.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. SANDLEIGH HOUSE 01/07APP.
- 4) A scheme detailing how at least 10% of the total energy needs of the development will be supplied using on site renewable sources shall be submitted to and agreed in writing by the local planning authority under the terms of this condition and implemented in full prior to the first occupation of the development. This provision shall be made for the lifetime of the development and in accordance with the agreed details.
- 5) Prior to occupation of the development hereby approved, water efficient design measures as set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption), including measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting shall be installed in the development hereby approved and be retained in perpetuity thereafter.
- 6) Demolition or construction works shall take place only between 8am and 6pm on Monday to Friday and between 8am and 1pm on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) The roof area of the single storey rear projection hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
- 8) The building hereby permitted shall not be occupied until the window at first floor level on the northern side elevation has been fitted with obscured glazing (to at least Level 4 on the Pilkington Levels of Privacy), and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.
- 9) The two car parking spaces for the dwelling hereby approved, as shown on approved plan SANDLEIGH HOUSE 01/07APP, shall be provided and made available for use at the site prior to the first occupation of the dwelling hereby approved. One of the parking spaces shall be fitted with an active electric vehicle charging point prior to first occupation of the dwelling. The car parking spaces shall thereafter be permanently retained only for the parking of vehicles of the occupiers and visitors to the new dwelling.
- 10) The development hereby approved shall be carried out in full accordance with the Demolition and Construction Management Plan submitted on 3 May 2024 or an alternative Demolition and Construction Management Plan (including Noise and Dust Mitigation Strategies) that has previously been

submitted to and approved in writing by the local planning authority under the terms of this planning condition.

- 11) The development hereby approved shall not be first occupied unless and until internal storage space has been provided and made available for use in accordance with details which have previously been submitted to and approved in writing by the local planning authority pursuant to this condition.

END OF SCHEDULE