

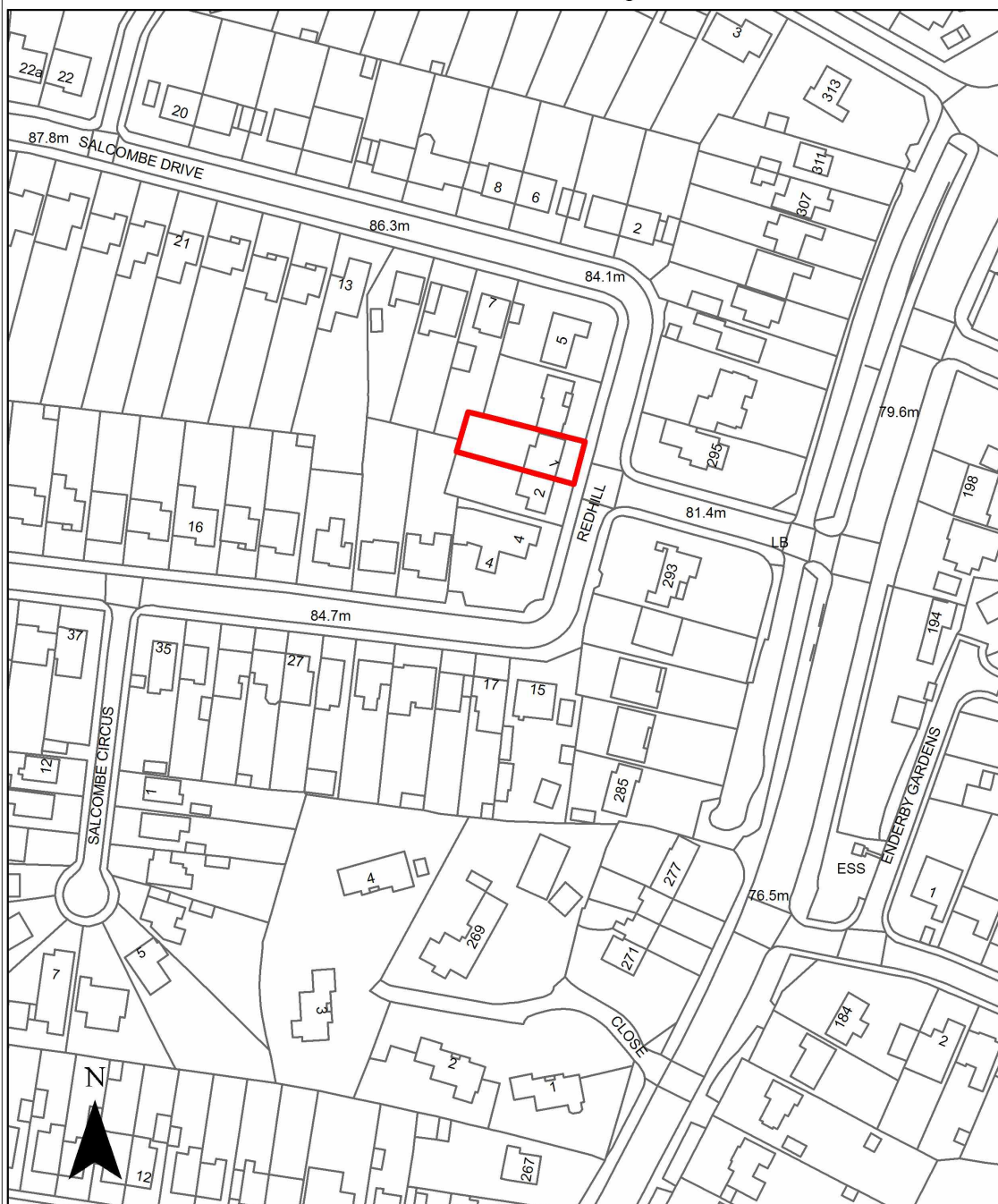
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Enforcement Reference: 0155/2017

Location

1 Salcombe Drive

Redhill Nottinghamshire



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Report to Planning Committee

Reference: 0155/2017

Location: 1 Salcombe Drive, Redhill, Nottinghamshire

Breach of Planning: Alterations to first floor window

1 Background

- 1.1 On the 7th August 2017, it was brought to the Council's attention that new replacement windows had been installed at No. 1 Salcombe Drive, Redhill. The complaint related in particular to the bathroom window at first floor level in the side elevation facing the blank side elevation of the adjacent property No. 3 Salcombe Drive.
- 1.2 The original obscured glazed top opening UVPC window had been replaced with an obscured glazed bottom 'push out' opening UVPC window which the complainants felt invaded their privacy in their rear garden.
- 1.3 The owner/occupier of No. 1 has offered to install opening restrictors on the new window to ensure it can only be opened to a limited degree. However, the complainants feel this will not resolve their concerns.

2 ASSESSMENT

- 2.1 The General Permitted Development Order 2015 (GPDO) allows certain development to take place without the need to apply for an express planning permission including the installation of new windows. However, it states that "any upper-floor window located in a wall or roof slope forming a side elevation of the dwelling house must be—
 - (i) obscure-glazed, and
 - (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.
- 2.2 The new bathroom window installed at the property is clearly in breach of the condition in the GPDO. However, it has replaced a window that was already

installed as an opening window prior to the requirements in the updated GPDO, albeit top opening and it faces directly out onto the blank elevation of the adjacent property.

- 2.3 Ventilation in a bathroom is essential and it was difficult for the occupier of No. 1 to open the top of the old window because of the toilet and bath obstructing the access to some degree. The new window pushes open from the bottom making it easier to operate. A view of the rear garden of the neighbouring property can only be gained with some difficulty by squashing in between the toilet and bath and opening the window almost half way or more.
- 2.4 It would be difficult to imagine that someone would wish to stand in such an awkward position to peer at their neighbours' activities in the rear garden. In any case the rear garden is also overlooked from a neighbouring property at the rear.
- 2.5 The National Planning Policy Framework at Paragraph 207 advises *"...Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control..."*
- 2.6 The Council strives for a consistent approach in targeting its enforcement action. This means that the Council will take a similar, but not the same, approach to compliance and enforcement decisions within and across sectors. It will strive to treat people in a consistent way where circumstances are similar. Each case however will be evaluated on the basis of its own facts and circumstances but will ensure that decisions or actions taken in any particular case are consistent with the law and with the Council's published policies. It should be noted that decisions on specific enforcement actions may rely on professional judgment. The Council will usually only take formal enforcement action where it is expedient and in the public interest to do so.
- 2.7 In this case, it is considered that if the owner at No. 1 installs the restrictors to prevent the window opening wide and giving a broad view of the neighbouring garden any overlooking issues would be resolved and this would be a proportionate response to this technical breach of planning control.

3 CONCLUSION

- 3.1 The newly installed obscured glazed bathroom window is in breach of the conditions of the GPDO. However, the offending window looks directly on to the blank side elevation of the neighbouring property.
- 3.2 A view of the neighbouring rear garden can only be gained if the window is opened wide and the occupier stands between the toilet and the bath. A restrictor installed on the window to prevent it from being opened wide would

mean the occupiers of No. 1 could not easily see across the neighbouring gardens.

- 3.3 Government advice recommends enforcement action is only taken where there is demonstrable harm and it is in the public interest to do so. In this case it is considered there is no justification for taking formal action if a mechanism is fitted to prevent the window from being opened wide.

4 RECOMMENDATION

- 4.1 No enforcement action is taken in respect of the breach of planning control, subject to the installation, within the next 56 days, of a permanent restrictor mechanism to prevent the existing top hung window from opening more than 200mm.