

Town and Country Planning Act 1990, section 73

Supporting Statement

Application under section 73 of the Town and Country Planning Act 1990 for the removal of Condition 9 of planning permission 79535/APP/2026/11.

Site	74 St Georges Drive, Ickenham, UB10 8HR
Applicant	Mr Norron Nyack
Parent permission	79535/APP/2026/11, granted 14 July 2026
Condition	Condition 9, rear first floor bedroom window
Local Planning Authority	London Borough of Hillingdon
Prepared by	Multiply Build
Document reference	MB-NN-S73-Supporting-Statement

1. Introduction

1.1 This statement supports an application under section 73 of the Town and Country Planning Act 1990 for the removal of Condition 9 of planning permission 79535/APP/2026/11, granted by the London Borough of Hillingdon on 14 July 2026.

1.2 No other change is sought. The development, the approved drawings and every other condition are to remain exactly as granted.

1.3 Condition 9 reads:

"Prior to the first occupation of the extensions hereby permitted, the right-hand rear first floor bedroom window (as viewed from the rear elevation), as shown on drawing no. PA8HR-01 - Sheet No: 002 dated 10.03.26, shall be glazed with permanently obscured glass to at least scale 4 on the Pilkington scale below a height of 1.7m taken from internal finished floor level, and shall also be non-opening below a height of 1.7m taken from internal finished floor level, for so long as the development remains in existence."

The stated reason is "To prevent overlooking and loss of privacy to adjacent properties in accordance with Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020)."

1.4 The case for removal rests on the Council's own assessment of this application. The officer's report concluded, in terms, that the overlooking arising from the two new rear first-floor windows would not be materially greater than what could already occur under an extant lawful development certificate, and would not justify refusal. Condition 9 was not among the conditions the officer recommended. It restricts one of two identical adjacent windows in the same elevation, leaving the other unrestricted, so it secures no privacy benefit that the permission does not already allow. Its only practical effect is on the applicant's own accommodation, a consequence officers identified at committee before the condition was imposed.

2. The window in question

2.1 The approved drawing, PA8HR-01 Sheet 002 dated 10.03.26, shows two first-floor bedroom windows in the rear elevation. Both are 1200mm wide by 1250mm high, both are PVCu flush casements, both are at the same head and cill level, and they sit immediately alongside one another. Each serves one of the two first-floor bedrooms.

2.2 Neither of those bedrooms has any other window. The flank openings at first floor serve the bathroom and the stair, not the bedrooms, and are separately controlled by Condition 8.

2.3 Condition 9 applies to one of these two windows only. The window beside it, in the same wall, at the same level, serving the adjoining bedroom, is clear-glazed and fully openable under the permission as granted.

3. How Condition 9 came to be imposed

3.1 The application was reported to the Planning Committee on 4 June 2026 with an officer recommendation to grant, subject to eight conditions set out in the committee report. Those eight conditions included an obscure glazing condition, but it was directed at the flank elevations only. It appears in the report as Condition 6, RES13, and requires that "the first floor windows to both flank elevations ... shall be glazed with permanently obscured glass to at least scale 4 on the Pilkington scale and be non-opening below a height of 1.7m".

3.2 No condition restricting any rear first-floor window formed part of the officer's recommendation, because the officer's assessment did not identify a rear overlooking problem requiring mitigation. Condition 9 was added by members at the meeting. This statement takes no issue with the Committee's entitlement to do so. The point made here is simply that the condition is not supported by the assessment in the Council's own report, and that on the Council's own findings it is not necessary.

4. The Council's assessment of rear overlooking

4.1 Section 7 of the committee report addresses privacy and overlooking in detail. On the rear first-floor windows specifically, the report states:

At paragraph 7.43, that although the additional height introduces "a level of oblique overlooking ... to surrounding neighbouring gardens", "the primary outlook would be to the applicant's own garden area".

At paragraph 7.44, that a rear-elevation first-floor window had already been proposed and confirmed lawful under certificate 79535/APP/2025/1632, and that "this window would have afforded a materially similar level of overlooking across neighbours as that now proposed, when considering its size and siting."

At paragraph 7.45, that "officers consider that the degree of overlooking would not be materially greater than that which could already occur under the fallback position", that "any views would be oblique views of the back end of the garden", that "the amenity areas closest the dwellings would be largely protected", and, in conclusion, that "whilst some perception of overlooking may arise, it would not be of a magnitude that would result in unacceptable harm to neighbouring amenity or justify refusal of the application."

4.2 That is the Local Planning Authority's own conclusion on precisely the impact Condition 9 is said to address. It is a conclusion of no unacceptable harm, reached on the merits, and it was not withdrawn or qualified.

5. The fallback position

5.1 Certificate of Lawful Development 79535/APP/2025/1632 was granted on 11 July 2025 for "conversion of roof space to habitable use to include 2 no side facing dormers with 3 no side facing windows and conversion from hip to gable end to the rear with new gable end window".

5.2 That certificate remains extant. It establishes that a rear-facing window serving habitable accommodation, at a comparable level, can lawfully be installed at this property without planning permission and therefore without any restriction on its glazing or its opening. The committee report relies on this fallback expressly, at paragraphs 7.44 and 7.45.

5.3 Condition 9 cannot therefore deliver the privacy outcome it is drafted to achieve. A clear, fully openable rear-facing window at first floor level is available to the applicant as of right.

6. The condition secures no privacy benefit

6.1 This is the central point, and it is a matter of geometry rather than judgement.

6.2 Condition 9 restricts one of two adjacent windows in the same elevation. The unrestricted window sits immediately beside it, in the same wall, at the same level, with a materially identical outlook. Any view of any neighbouring land available from the restricted window is available from that adjoining opening, without any restriction of any kind.

6.3 The condition therefore does not prevent the overlooking it is directed at. It relocates it by the width of a bedroom wall. A condition that does not achieve its stated purpose is not necessary within the meaning of paragraph 57 of the National Planning Policy Framework, and it is not a reasonable imposition on the applicant.

7. The measured relationship

7.1 A measured separation study was prepared from the design model on 16 May 2026 and submitted to the Committee as Appendix G to the applicant's written representation. It is taken from the rear first-floor bedroom window of No. 74, described in that appendix as the rear loft bedroom window, the first floor at this property being the loft addition. The two rear bedroom windows are adjacent and in the same plane, so the relationship recorded is materially the same from either. It records:

Neighbouring window	Distance	Angle from the window
No. 85 Copthall Road West, first-floor rear window	13.34m	20.38 degrees
No. 83 Copthall Road West, first-floor rear window	16.07m	42.77 degrees

7.2 Neither relationship is a direct or facing one. Both are oblique, at 20 and 43 degrees off the axis of the window, and both are at a distance beyond 13 metres. The committee report records at paragraph 7.29 that the properties to the east are two storey with rear gardens of approximately 9 to 10 metres in depth, and assessed the relationship on that basis as acceptable.

7.3 The relationship is also mutual and characteristic of the area. The report records at paragraph 7.45 that views would be of the back end of the garden and that the amenity areas closest to the dwellings would be largely protected.

8. The effect of the condition on the accommodation

8.1 Officers raised this at committee before the condition was imposed, noting that the window in question serves a bedroom and that requiring it to be obscure glazed would reduce the standard of accommodation for that window.

8.2 The practical effect is as follows. The bedroom served by this window has no other window. Under Condition 9 the whole of the window below 1.7m above internal floor level must be permanently obscured and fixed shut. That threshold sits above standing eye level for an adult, and well above seated eye level. The occupant of that bedroom would have no clear view out of the room, whether standing or seated, at any point in its use.

8.3 Policy D6 of the London Plan (2021) requires new housing to provide adequate outlook and daylight to habitable rooms. A first-floor bedroom whose only window is obscured across its usable height does not meet that expectation, and there is no corresponding gain to any neighbour, for the reasons at section 6.

8.4 Separately, the restriction on opening forecloses one of the two routes to compliance with Requirement B1 of the Building Regulations for a habitable room on an upper storey. Paragraph 2.2 of Approved Document B, Volume 1 (2019 edition incorporating the 2020 and 2022 amendments) provides that habitable rooms on an upper storey a maximum of 4.5m above ground level, served by only one stair, should have either an emergency escape window complying with paragraph 2.10 or direct access to a protected stairway. Paragraph 2.10a(iii) requires that the bottom of the openable area of an emergency escape window is a maximum of 1100mm above the floor. A window that cannot open below 1.7m above floor level can never satisfy that requirement. The applicant is not asking the Council to determine a Building Regulations question. The point is that the condition permanently removes an option that would otherwise be open to him, for no planning benefit.

9. Assessment against the tests for conditions

9.1 Paragraph 57 of the National Planning Policy Framework (December 2024) provides that "Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects." Planning Practice Guidance repeats the tests at Paragraph: 003 Reference ID: 21a-003-20190723.

9.2 Necessity. The Council's own assessment concluded that the overlooking from the rear first-floor windows would not cause unacceptable harm and would not justify refusal. A condition addressing an impact the Local Planning Authority has found acceptable is not necessary. The point is reinforced by the extant certificate, which allows an unrestricted rear-facing window in any event.

9.3 Reasonableness. The condition delivers no privacy benefit, because the adjoining window in the same elevation is unrestricted. It imposes a permanent burden on the applicant's accommodation, obscuring the only window of a first-floor bedroom across its usable height and preventing that window from ever functioning as an emergency escape window. A condition whose burden is real and whose benefit is nil fails the test of reasonableness.

9.4 The applicant does not contend that Condition 9 fails the remaining tests, and this application is made on the two grounds above.

10. Policy

10.1 Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020) seeks to ensure that development does not adversely impact on the amenity, daylight and sunlight of adjacent properties. Policy DMHD 1 requires that a satisfactory relationship with adjacent dwellings is achieved with no unacceptable loss of outlook to neighbouring occupiers. The committee report applied both policies to this relationship and found it acceptable. Removal of Condition 9 leaves the development in the same position as the report assessed it.

10.2 Policy D6 of the London Plan (2021) supports the removal of the condition, for the reasons at paragraph 8.3.

11. The remaining conditions

11.1 Section 73 grants a new permission alongside the original. The applicant asks that the new permission carry Conditions 1 to 8, 10 and 11 of permission 79535/APP/2026/11 in the same terms, and confirms that he does not seek any change to them.

11.2 For completeness, the details required by Condition 6 of the parent permission were provided to the case officer by email on 25 July 2026. The Council has since asked that they be submitted as a discharge of conditions application so that the matter can be dealt with formally,

and that application will follow. Condition 6 has therefore not yet been discharged. The applicant asks only that any Condition 6 re-imposed on the new permission be in the same terms as the parent, so that it may be discharged by that application.

12. Conclusion

12.1 Condition 9 was not recommended by officers. It addresses an impact the Council's own report found acceptable on the merits, and which an extant lawful development certificate allows to occur in any event without control. Because the condition restricts one of two adjacent windows in the same elevation and leaves the other unrestricted, it cannot achieve its stated purpose. Its only real effect is on the applicant, whose first-floor bedroom would be left with no clear outlook and no window capable of serving as an emergency escape.

12.2 The applicant respectfully asks the Council to grant permission under section 73 with Condition 9 removed, and confirms that no other change to the permission is sought.

12.3 If the case officer is minded not to recommend removal, the applicant would welcome the opportunity to discuss the point before this application is determined.

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