

# Fountain House Hotel, 116-118 Church Road, Hayes

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Our ref: 0182/116CRH/PS  
LPA ref: 7772/APP/2021/4495

## PLANNING STATEMENT

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Rosemay Hotels Limited

VERSION: 1.2



**Stewart**  
Management & Planning Solutions

# Fountain House Hotel, 116-118 Church Road, Hayes

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## 1. INTRODUCTION

Stewart M&PS has been instructed by the Rosemay Hotels Limited to produce this Statement to accompany a Section 73 application for the removal of planning condition number 8 attached to the planning permission LBH Ref No. 7772/APP/2021/4495 for:

**Refurbishment of existing Hotel including two storey side extension, two storey purpose built accommodation units, basement, outdoor amenity space, refuse areas, access alterations with new gate, plant room, cafe and associated parking and external alterations**

The Fountain House Hotel has been operating from this site for more than 20 years. The above referenced planning permission enables a major upgrade and modernisation programme for the hotel and the services offered to its visitors. At present the property comprises 29 hotel rooms, alongside food and drink space and on-site parking. Following the proposed improvements, it would have 28 guest rooms with an ancillary ground floor café and a reduced number of parking spaces.

One of the drivers for the refurbishment and extension of the hotel at the application site was to improve the “offer” for customers with disabilities and as part of this initiative an adapted bedroom suite is proposed at ground floor level and with convenient access to the designated disabled parking space, consistent with Part 1 of BS8300. Ensuite sanitary facilities were proposed in accordance with Figure 30 of Part 2 of BS8300. Although details of the layout of the suite were not detailed in the application drawings, the space allocated for the adapted suite is clearly able to accommodate all of the facilities and ease of use shown in Figures 30 and 52 of BS8300 Part 2. In addition, the ground floor has been redesigned to enable safe and convenient use by people with disabilities and includes an adapted toilet on the ground floor adjacent to the café available to all visitors, not just guests.

The planning permission was granted subject to 16 Conditions. This application seeks the removal of Condition 8 which is concerned with the provision of an adapted guest suite for people with disabilities.

## 2. CONDITION 8

**8 The development hereby approved shall ensure that a minimum of one ensuite guestroom, within the approved purpose-built extension, is sized, designed, and fitted with a level access shower, and tracked hoist system between the bedroom and bathroom, in accordance with BS 8300-: 2018, subsection 19.2.1.2. The facility shall remain in place for the life of the building.**

### **REASON**

**To ensure that London's visitor infrastructure is accessible and welcoming to all sections of the population, including older and disabled people, in accordance with London Plan policy E10.**

The condition references BS8300 and London Plan Policy E10 both of which are concerned with provision of suitable hotel accommodation for people with disabilities amongst other things. However, we consider that Condition 8 sets out a misunderstanding of BS8300 part-2 in relation to London Plan Policy E10 and the approved scheme details that make Condition 8 unnecessary and unreasonable. It is also overly prescriptive setting out requirements beyond the scope of Policy E10 without reasoned justification and, in that respect, it lacks the precision ordinarily required for valid planning conditions. Our concerns regarding these matters are detailed below.

As a code of practice, BS8300 parts-1 and -2, like most other British Standards, is clear that its function is to provide guidance and recommendations. "It should not be quoted as if it were a specification". Regrettably, Condition 8 does exactly that. Moreover, it is based on a misapplication of London Plan Policy E10 and the way in which it references BS8300.

London Plan Policy E10 is concerned with the capital's visitor infrastructure. Part H advises:

*To ensure sufficient choice for people who require an accessible bedroom, development proposals for serviced accommodation should provide either:*

- 1) 10 per cent of new bedrooms to be wheelchair-accessible in accordance with Figure 52 incorporating either Figure 30 or 33 of British Standard BS8300-2:2018 Design of an accessible and inclusive built environment. Buildings. Code of practice; or*
- 2) 15 per cent of new bedrooms to be accessible rooms in accordance with the requirements of 19.2.1.2 of British Standard BS8300-2:2018 Design of an accessible and inclusive built environment. Buildings. Code of practice.*

We note that the London Plan is at pains to avoid using BS8300 as a specification and instead refers to examples of layouts in figures 30, 33 and 52 of the document and gives options for developers to use which support achieving the mayor's objectives in relation to inclusivity in serviced accommodation like hotels.

Copies of the figure 30 and 52 layouts have had to be removed for copyright reasons, however we would encourage the reader to refer to the original BS8300 part-2 document direct.

The explanatory text for Policy E10 helpfully advises that the choice of which of optional layout 30 or 33 to be applied with layout 52 in any given situation is entirely at the discretion of the developer. The alternative of an accessible room with a tracked hoist system referred to in Condition 8 is discussed in paragraph 19.2.1.2 of BS 8300. However, it notes that this will require an adjacent, connected room for use by an assistant. Notwithstanding the above, it must be noted that paragraph 19.2.1.2 is not solely concerned with hoists. As a matter of fact, it also refers to a range of other arrangements to facilitate inclusive access ranging down to rooms that are large enough for easy adaptation to wheelchair accessible bedroom standards. From any reading of paragraph 19.2.1.2, it is clear that its proposals are not intended to be more onerous than the detailed layout in Figures 30, 33 or 52. The requirement for a tracked hoist in Condition 8 and the inference that this is specifically required for compliance with paragraph 19.2.1.2 is therefore considered to be highly misleading.

Whilst we are mindful that other material circumstances can apply dictating in favour of a more prescriptive approach to achieving the objectives of Policy E10, the reason for Condition 8 cites no material circumstances for limiting the options available to the developer under Policy E10 in this or any other circumstances. Similarly, it cites no material circumstances positively directing the provision of a tracked hoist in this instance.

We have examined the officer's report and note that this condition was requested by the council's Access Officer based on a clearly flawed reading of the mayor's policy. The council will be familiar with PPG advice on dealing with consultee requests for conditions which places the onus on the council in its role as local planning authority to determine whether it is appropriate to impose such conditions, having regard to whether the six tests of validity for planning conditions will be met.

### **3. THE SIX TESTS**

Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should only be used where they satisfy the following tests:

1. necessary.
2. relevant to planning.
3. relevant to the development to be permitted.
4. enforceable.
5. precise; and
6. reasonable in all other respects.

Condition 8 clearly fails to meet the first, fifth and sixth and by implication would be difficult to enforce, thereby failing the fourth test also.

Regarding the first test, approved drawing FHH-PP-200 REV H clearly shows the location of a designated suite for guests with disabilities. The space is clearly annotated to advise that the space would be laid out to accord with Figure 30 of BS 8300. The suite measures more than 27m<sup>2</sup> which is ample to comfortably meet the requirements Figure 52 with the Figure 30 wet room and WC configuration promoted as an option in London Plan Policy E10. This is clearly demonstrated in the BDA drawing TV-DATA-PLAN that accompanies this statement. Condition 8 is therefore superfluous. Failure to make the necessary internal arrangements advocated in FHH-PP-200 REV H could be enforced as a breach of Condition 2 requiring the development to be carried out in accordance with

the approved plans. Moreover, for the reasons already given in the previous section, the provision of a tracked hoist system is not necessary to secure compliance with London Plan Policy E10.

Whilst the wording of Condition 8 is very specific, its relationship to the stated reason for the condition is unclear, for the reasons already specified. It is not therefore precise when read as a whole. It is a long-held convention that the applicant is entitled to understand fully what is required by a planning condition and the reason for it by a simple reading of that condition. We would therefore submit that, on that basis, Condition 8 fails to meet the fifth test.

With regard to the reasonableness of Condition 8, we would point out in the first instance that the scheme of extensions alterations and refurbishment of the hotel authorised by the planning permission 7772/APP/2021/4495, provides for the improvement of a locally listed building and its long-term retention in viable economic use. The applicants have worked with the council to ensure that the proposals are sensitive to the historic character of the building, and this has been at some considerable additional cost to them, not least a reduction in the number of lettable rooms in the hotel. Providing a guest suite with a tracked hoist and a connected room for a trained operator of the hoist would require a complete re-configuration of the agreed and approved scheme. This extent of change would be in immediate conflict with Condition 2 which requires the development to be carried out “in complete accordance” with the details in an already specified set of plans. PPG guidance warns that a condition that modifies a development in such a way as to make it substantially different from that set out in the application, as would be the case here, should not be used. A similar point was stated in *Cadogan v SoS 1992* that “It is established law that a condition on a planning permission will not be valid if it alters the extent or indeed the nature of the development permitted”.

A related matter for concern is that an adapted suite with a fixed track hoist and connected room would only be lettable to a narrow section of people with disabilities and, when unoccupied by that group, could not be readily converted to general use. This would imply a potential loss of revenue in addition to the additional costs of redesigning the approved scheme and installing the ceiling reinforcements required to facilitate the tracked hoist. These additional costs would be significant for a small boutique hotel such as this and would threaten its viability in both the short and long term. For these reasons it is considered that the requirement for a ceiling hoist is unreasonable and fails to meet the sixth test.

#### **4. CONCLUSION**

In all the circumstances, we would submit that, as currently drafted, Condition 8 is not a valid planning condition as it substantially fails to meet the validity test for planning conditions set out in Paragraph 55 of the NPPF. On that basis Condition 8 should be withdrawn. In the alternative the Condition could be modified to remove reference to individual facilities i.e., the level access shower, and the tracked hoist system between the bedroom and bathroom, as the council has presented no justification for these specific facilities to warrant a departure from London Plan Policy E10. The incomplete reference to BS8300-2 should also be corrected.

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