

**MADDOX PLANNING**

**PLANNING**

**STATEMENT**

**LONDON & MANCHESTER**

**0845 121 1706**

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## **PLANNING STATEMENT**

**67 BAYHAM STREET, LONDON, NW1 0AA**  
**22/12/2020**

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## **DESCRIPTION OF DEVELOPMENT**

Lawful development certificate to confirm the lawfulness of an existing use of buildings or other land ('the Application') under Section 191(1)(a) of the Town and Country Planning Act 1990 ('the Act') at 67 Bayham Street, London, NW1 0AA.

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## **TYPE OF APPLICATION**

Lawful development certificate

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## **APPLICANT**

AREA CAMDEN LIMITED

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## **CONTENTS OF THIS STATEMENT**

1. Introduction
2. Legal and policy framework
3. Evidence
4. Conclusions

## **APPENDICES**

1. Officer's report (Ref: HGY/2020/2003)
2. Decision notice (2019/0667/P)
3. Existing floor plans

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## **1.0 INTRODUCTION**

- 1.1 The purpose of this statement is to support an application for a lawful development certificate to confirm the lawfulness of an existing use of buildings or other land ('the Application') under Section 191(1)(a) of the Town and Country Planning Act 1990 ('the Act') at 67 Bayham Street, London, NW1 0AA ('the Site'). The applicant is Area Camden Limited ('the Applicant'), and the local planning authority is Camden ('the Council').

### **THE EXISTING USE**

- 1.2 At the date of the Application, the use of the Site is a children's home accommodating three children/young persons at any one time and receiving care under the supervision of qualified support staff.

### **STRUCTURE OF STATEMENT**

- 1.3 This statement sets out the legal and policy framework for an application and determination procedure for obtaining a lawful development certificate for an existing use. The statement then provides the necessary evidence as required under the regulations before providing a conclusion.

### **APPLICANT'S INTEREST IN THE LAND**

- 1.4 The Applicant has a long leasehold at the property.

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## **2.0 LEGAL AND POLICY FRAMEWORK**

- 2.1 This section sets out the legal and policy framework for an application and determination procedure for obtaining a lawful development certificate for an existing use.

### **TOWN AND COUNTRY PLANNING ACT 1990**

- 2.2 Under Section 191(1)(a) of the Act any person can apply to ascertain whether any existing use of buildings or other land is lawful. In making an application the applicant must specify the land and describe the use. Section 193 of the Act states that an application for a certificate under section 191 shall be made in such manner as may be prescribed by a development order and shall include such particulars, and be verified by such evidence, as may be required by such an order or by any directions given under such an order or by the local planning authority ('LPA').

### **TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015**

- 2.3 Under article 39 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 ('the Order') an application under section 191 of the Act must be made on a form published by the Secretary of State (or on a form substantially to the same effect) and must, in addition to specifying the land and describing the use in question in accordance with those sections, include the particulars specified or referred to in the form. An application must be accompanied by:
1. A plan identifying the land to which the application drawn to an identified scale and showing the direction of North;
  2. Such evidence verifying the information included in the application as the applicant can provide; and;
  3. A statement of the applicant's interest in the land and whether any such other person has been notified of the application.

### **LOCAL PLANNING AUTHORITY REQUIREMENTS**

- 2.4 For applications for lawful development certificates, the LPA requires planning statements to include the following information:
- Applications for a certificate of lawfulness must be supported by information that demonstrates why the existing or proposed development is lawful; and
  - You must explain in your own words why you consider a Lawful Development Certificate should be granted. The evidence necessary to prove your entitlement to a certificate will depend on what is being applied for, but you should always remember that the emphasis is on the applicant to convince the local authority that a certificate should be issued. Therefore, the evidence submitted should be clear and convincing.

### **PLANNING PRACTICE GUIDANCE**

- 2.5 Where an application has been made under section 191, the statement in a lawful development certificate of what is lawful relates only to the state of affairs on the land at the date of the certificate application (17c-002-20140306).
- 2.6 An application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates (17c-005-20140306).

- 2.7 The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to cooperate with an applicant who is seeking information that the authority may hold about the planning status of the land. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence along is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability (17c-006-20140306).
- 2.8 A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is lawful. Planning merits are not relevant at any stage in this particular application (17c-009-20140306).

### **SIMILAR DECISIONS**

- 2.9 On 18 September 2020, a certificate of lawfulness for a proposed use application from C3 to C3(b)(HGY/2020/2003) at 87 Mayes Road in the borough of Haringey. The proposed use was a children's care home for four young people (ages 10 to 18 years) living together as a single house and receiving care, so a similar number of residents and operation as in this Application.
- 2.10 As the Council will note from the Officer's report for the abovementioned application (Appendix A), Haringey confirmed that the proposal was *"not considered to amount to a material change of use as there would be no significant difference in character of the activities relating to the existing use. The environment in which residents would live would reflect that of a family home and the operation of the property would fall within Use Class C3(b)."*
- 2.11 On 15 August 2019 the Applicant received full planning permission (2019/0667/P) from Camden for the change of use of 33 Bayham Street, NW1 OAA to a residential children's home C3b. The proposed use was a children's care home for three young people (ages 10 to 18 years) living together as a single house and receiving care, so the same number of residents and operation as in this Application. A copy of the decision notice is attached at Appendix B.

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### **3.0 EVIDENCE**

3.1 This section sets out the evidence, both proof and circumstantial, to support the application.

#### **BACKGROUND**

- 3.2 The Applicant owns a privately run children's home, it provides care and accommodation for children of either sex who have emotional and behavioural difficulties. Physical care is not a requirement of the business as no children at the property have any physical disabilities. All children have their own bedroom and the mix of children is matched in accordance with their need's assessment.
- 3.3 The Applicant operates six children's homes within London and as such has an existing relationships with the relevant Looked After Children's departments including Camden's. All the company's homes are rated "Good" by Ofsted with two homes in Camden having been previously rated "Outstanding"
- 3.4 67 Bayham Street is a home for three young people who are unable to live with their birth families for a variety of reasons. The mantra of the company is to offer 'the highest quality care within the highest quality setting as close to a family environment as possible within the local community'.
- 3.5 The key assessment to consider is whether in its use as a children's home accommodating three children/young persons at any one time and receiving care under the supervision of qualified support staff, there has been a material change of use at the property from its former use as a dwellinghouse. There is no statutory definition of a material change of use, however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this has to be determined on the individual key issues and merits of the case.

#### **KEY ISSUES**

- 3.6 The key issues in determining whether there has been no material change of at the Site from a single dwellinghouse to a children's home are: 1) the number of residents involved, for example if the number of residents is not more than six then this is consistent with a dwellinghouse use and 2) how the operation is conducted, for example if resident care is not required overnight but is provided in shift patterns such that there is no change in the character of a dwellinghouse (i.e. no increase in comings and goings and disturbance) then again this is consistent with a dwellinghouse use.

#### **NUMBER OF RESIDENTS**

- 3.7 The property will be occupied by three young people who are cared for by a member of staff at all times, which is consistent with the number of residents occupying a three bedroom family dwellinghouse.

#### **OPERATIONS ON-SITE**

- 3.8 There are two staff shifts: daytime (8am to 8pm) and nighttime (8pm to 8am). Each shift has one staff. The nighttime staff do not sleep in the home but stay awake. Care is provided in the form of domestic chores, cleaning and preparing meals for themselves and the children. The young people will attend education during the day at local schools/colleges and their routines will mimic that of a normal family.
- 3.9 The home is registered with Ofsted ('the Regulators') and it will inspect the home once a year. The home also adheres to the Children's Homes Regulations (England) 2015 as well as the Quality Standards set out by Ofsted.

## **CHARACTER AND APPEARANCE**

- 3.10 A visit to the Site and an internal inspection will provide proof through physical evidence that at the date that the Application is made the Site is used as a single dwellinghouse accommodating three children/young persons at any one time and no material change of use has occurred as it is akin to a three bedroom family dwelling.
- 3.11 The property is occupied and run as a normal family home with a single kitchen where all food is cooked and eaten in a family environment. This kitchen is provided on the ground floor alongside the living room. The upper floors comprise of separate bedrooms for each young person with two shower rooms located on the first floor. An existing layout plan is attached at Appendix D.
- 3.12 As set out above, the activities and occupancy of the home is akin to that of a three bedroom family dwelling and as such, there is no material change in the amount and arrangement of storing refuse and recycling. The refuse and recycling is collected via ordinary domestic refuse services which the Council operates. The young people and staff travel by public transport and therefore, the level of vehicular trips to the property is consistent with a dwellinghouse use.
- 3.13 As the activities and occupancy of the home is akin to that of a three bedroom family dwelling, there is no material change in the amount of noise generated from the property. Nor have any material changes been made to the external appearance of the building, which materially alter the outlook or amenity for neighbouring properties.



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#### **4.0 CONCLUSION**

- 4.1 The evidence set out in this statement demonstrates that the existing use of the Site at the date of this Application is a single dwellinghouse accommodating three children/young persons at any one time and receiving care under the supervision of qualified support staff. There has subsequently, been no material change to the use of the property as there has been no change in its residential character.
- 4.2 Consequently, we respectfully request that the Council issues a certificate of lawful development for the existing use of 67 Bayham Street, London, NW1 0AA as a children's home accommodating three children/young persons at any one time and receiving care under the supervision of qualified support staff. The evidence provided form the reasons for determining the use to be lawful and for such reasons to be included on the certificate as prescribed under section 191(5)(c) of the Act.

# APPENDIX 1

# LIST OF RECOMMENDATIONS UNDER DELEGATED POWERS

## REPORT FOR CONSIDERATION UNDER DELEGATED POWERS

### 1. APPLICATION DETAILS

**Reference No:** HGY/2020/2003

**Ward:** Noel Park

**Date received:** 21/07/2020

**Drawing number of plans:** 250-EXT-01, 250-PROP-01

**Address:** 87 Mayes Road N22 6UP

**Proposal:** Certificate of Lawfulness for the proposed change of use of 87 Mayes Road from C3 to C3(b) - use as a dwelling house for 4 young people (ages 10 to 18 years) living together as a single house and receiving care

**Applicant:** Miss. Nicole Thomas

**Ownership:** Private

**Case Officer:** Laina Levassor

### 2. RECOMMENDATION

GRANT CERTIFICATE

### 3. RELEVANT PLANNING AND ENFORCEMENT HISTORY

HGY/2002/0929: The formation of a vehicular crossover to a classified road – Refused

HGY/2007/2172: Erection of two storey rear extension, infill of existing lightwell, erection of rear dormer window and conversion to form 2 x two bed flats and one studio flat – Refused

HGY/2014/0230: Formation of rear dormer and insertion of 3 front rooflights (certificate of lawfulness for an existing use) – Grant Permission

### 4. DETAILS OF PROPOSAL

This is an application for a certificate of lawfulness for the proposed change of use of 87 Mayes Road from C3 to C3(b) - use as a dwelling house for 4 young people (ages 10 to 18 years) living together as a single house and receiving care.

### 5. RELEVANT PLANNING LEGISLATION

The application has been made under section 192 of the Town and Country Planning Act 1990 and relevant amendments. This not a planning application but instead the applicant seeks confirmation that the proposed development is lawful. As such, the impact of the proposed development of the neighbour's amenities or the character of the area cannot be taken into consideration for this submission.

## **6. ANALYSIS/ASSESSMENT OF THE APPLICATION**

This is an application for a certificate of lawfulness for the proposed change of use of 87 Mayes Road from C3 to C3(b) - use as a dwelling house for 4 young people (ages 10 to 18 years) living together as a single house and receiving care.

Use Class C3(b) is defined in Part C of the Town and Country Planning (Use Classes) Order 1987 as – Use as dwellinghouse (whether or not as a sole or main residence) – by not more than 6 residents living together as a single household, including a household where care is provided for residents.

Information provided in support of this application shows that the property will be used as a dwellinghouse for a maximum of 4 young people, supported by staff who would undertake domestic duties. The applicant proposes that the property would be occupied, be run as and function as a family home and create a family environment for its residents.

The proposed floor plan includes a communal kitchen, living room, bathroom and office at ground floor level, 4 bedrooms and a bathroom at first floor level and two designated staff bedrooms and bathroom at second floor level. The current layout and use of the property is as a 6-bedroom single family dwelling. The proposed layout would accommodate each child with their own bedroom and bedrooms for two overnight staff. The change in use would not result in physical changes to the property or its layout, nor would it result in changes to the current function of the property.

A proposed staffing rota shows that 3 members of staff would provide on-site care from 8am to 8pm. Where additional support may be required, a maximum number of 4 members of staff would be present throughout these hours – it is noted however that this is variable depending on factors surrounding the residents and would not always be required. Where additional support staff is required as described, is not considered this function would be materially different to any household. The maximum number of staff staying overnight in any instance, would be two.

The proposal is not considered to amount to a material change of use as there would be no significant difference in character of the activities relating to the existing use. The environment in which residents would live would reflect that of a family home and the operation of the property would fall within Use Class C3(b).

### **7.0 CIL APPLICABLE**

The increase in internal floor area would not exceed 100sqm and therefore the proposal is not liable for the Major's CIL charge.

### **8.0 SUMMARY AND CONCLUSION**

The proposed development constitutes permitted development by virtue of Schedule 2, Part 3, of the Town and Country Planning (General Permitted Development) Order 2015 and is considered to be lawful.

### **9.0 RECOMMENDATION**

Grant Certificate

Registered No. HGY/2020/2003

Applicant's drawing No.(s) 250-EXT-01, 250-PROP-01

In pursuance of their powers under the above Acts and Order the London Borough of Haringey as local planning Authority hereby CERTIFY that the above proposal described by the applicant constitutes PERMITTED DEVELOPMENT and is therefore LAWFUL.

## APPENDIX 2



Application ref: 2019/0667/P  
Contact: Josh Lawlor  
Tel: 020 7974 2337  
Date: 15 August 2019

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE  
Phone: 020 7974 4444  
[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

People & Space Limited  
2 Tower House, Tower Center  
HODDESDON  
EN11 8UR  
United Kingdom

Dear Sir/Madam

### **DECISION**

Town and Country Planning Act 1990 (as amended)

#### **Full Planning Permission Granted Subject to a Section 106 Legal Agreement**

Address:  
**33 Bayham Street**  
**London**  
**NW1 0AA**

Proposal:  
Change of use from house in multiple occupation (sui generis) to residential children's home (C3b).  
Drawing Nos: Planning Statement\_REV\_A, Cover Letter, Site Location Plan, Elevations\_C141\_04, Proposed Plans\_C141\_03\_REV\_A, Existing Plans\_C141\_02

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans [Planning Statement\_REV\_A, Cover Letter, Site Location Plan, Elevations\_C141\_04, Proposed Plans\_C141\_03\_REV\_A, Existing Plans\_C141\_02]

Reason: For the avoidance of doubt and in the interest of proper planning.

- 3 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or the Town and Country Planning (General Permitted Development) Order 2015 (or any orders revoking and re-enacting those orders with or without modification), the site shall only be used as a young persons' care home registered with Ofsted under the Children's Homes Regulations where up to three young people live as a family and receive on-site care and supervision at all times from qualified carers, and for no other purposes whatsoever including any other C3 use.

Reason: To ensure that the property continues to provide a suitable alternative low cost shared housing, in accordance with Policy H10 of the Camden Local Plan (2017).

#### Informative(s):

- 1 Reason for granting permission-

The building is a licensed House in Multiple Occupation (HMO) (class sui generis). The HMO is licensed for up to 7 people living in a relatively small rooms (overall floor area of 75 sq m excluding corridors). At the date the license was issued in September 2014 two units had shared facilities and two units were self-contained. The building has been self-contained after the HMO license was issued however the building still operates as a single planning unit and HMO (class sui-generis).

The proposal seeks to change the use from a licensed HMO (sui-generis) to residential children's homes (C3(b)). This is where up to six people live together as a single household and receive care. Policy H10 states the council will resist development that involves the net loss of housing with shared facilities (HMOs) or the self-containment of any part of such housing unless adequate replacement housing with shared facilities will be provided. The proposed use would offer a form of shared living, but would be less intensive, and provide a common area for occupiers on the ground floor.

The proposed use would be a form of supported housing, and a suitable alternative to the 'long-term addition to the supply of low cost housing' sought by Policy H10. As indicated, part of the supporting text to Policy H10 supports securing a use of this kind where an HMO cannot be retained. To satisfy the requirement in Policy H10 to secure the replacement housing as a long-term low cost housing the 106 agreement will secure the use proposed for a minimum of five years.

It is not considered that there is an overconcentration of HMOs on to street that is causing disturbance and harm to neighbouring residential amenity. The proposal would not create a harmful concentration of C3b units or cause harm to nearby residential amenity beyond the existing. The Councils Environmental Health Private Sector Housing Team have been consulted on the proposal and raise no objection to the proposal.



Policy H8 encourages housing for 'vulnerable people', which includes looked-after children. This policy supports small supported living schemes, which are homes shared by no more than six people living as a household with support available, sometimes on-site, this accurately describes the proposal. The Councils Child services department have been consulted and support the proposed OFSTED registered residential unit/home for 'looked After Children (children and young people in the care of local authorities)'. The proposal would enable Camden to keep their looked after children in the borough maintaining their community links.

Criteria (c) to (e) are concerned with the accessibility of the facility to services, the contribution to a mixed, inclusive and sustainable community, and harm to residential amenity. Given the proximity to Camden High Street, tube stations and numerous bus services, the location is highly accessible. Given the small scale of the facility, the reduction in the intensity of the use (the HMO licence provides for up to 7 occupiers, the proposed facility will provide for 4 occupiers), and the presence of a qualified carer on site, the facility would be expected to contribute to the mix and inclusiveness of the community without harm to residential amenity.

Policy T2 requires all new residential development, including changes of use, with new occupiers to be car free. There is a separate legal agreement to secure the development as car-free housing. This will prevent future occupants from applying for on street car parking permits. A covered and secure cycle storage for two bicycles is provided to the ground floor rear yard.

One objection was received prior to making this decision, which has been duly considered. The proposal is in general accordance with the Camden Local Plan 2017, with regard to policies H4, H8, H10, A1, T2, T1, D1 and D2. The proposal also accords with the London Plan 2016 and NPPF 2019

- 2 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.
- 3 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website at <https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319> or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these

hours.

- 4 This proposal may be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL. Both CILs are collected by Camden Council after a liable scheme has started, and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement. We issue formal CIL liability notices setting out how much you may have to pay once a liable party has been established. CIL payments will be subject to indexation in line with construction costs index. You can visit our planning website at [www.camden.gov.uk/cil](http://www.camden.gov.uk/cil) for more information, including guidance on your liability, charges, how to pay and who to contact for more advice.
- 5 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 6 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team London Borough of Camden 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444) . Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully



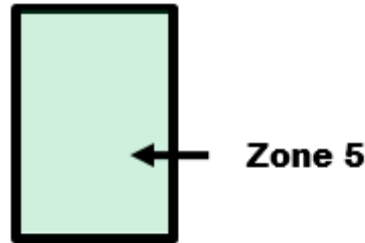
Daniel Pope  
Chief Planning Officer

# APPENDIX 3

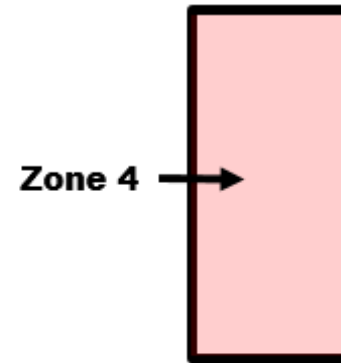
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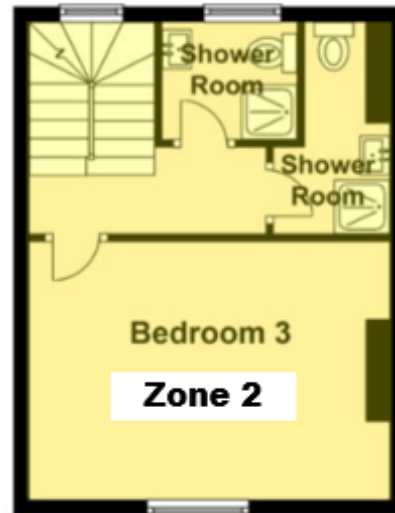
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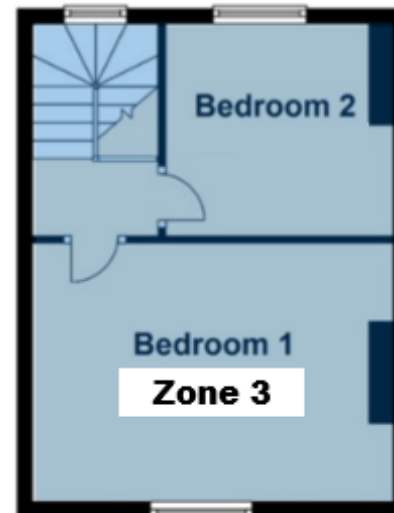
**Loft**



**First Floor**



**Second Floor**



**Area Camden Ltd  
Fire Alarm Zone Plan**

db Levels Tested By:  
 Print Name .....  
 Signature .....  
 Date .....

Final Drawings Checked By Designer:  
 Print Name .....  
 Signature .....  
 Date .....

Notes

Drawing Designer  
 Robert McKelvey



**Fire & Security**

Your Contract Number  
 For Service Call  
 Fire Category

1000798192  
 0344 8001 999  
 L1

**67 Bayham Street NW1 0AA**

Date	Drawing No.	Revision
09/02/2018	88888-01	01