

DATED 5 September 2016

(1) COLD AS ICE LIMITED

and

(2) THE MAYOR AND BURGESSES OF  
THE LONDON BOROUGH OF CAMDEN

**A G R E E M E N T**  
relating to land known as  
16 MILLFIELD LANE LONDON N6 6JD  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended)  
Section 278 of the Highways Act 1980

Andrew Maughan  
Head of Legal Services  
London Borough of Camden  
Town Hall  
Judd Street  
London WC1H 9LP

Tel: 020 7974 5680  
Fax: 020 7974 1920

1781.766



THIS AGREEMENT is made the 5 day of September 2016

**B E T W E E N:**

- i. **COLD AS ICE LIMITED** (incorporated in Gibraltar) care of Edwin Coe, Edwin Coe LLP 2 Stone Buildings, London WC2A 3TH (hereinafter called "the Owner") of the first part
- ii. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

**1. WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL738237 and is interested in the Property for the purposes of Section 106 of the Act.
- 1.2 A Planning Application for the Development of the Property was submitted to the Council and validated on 20 October 2015 and the Council resolved to grant permission conditionally under reference number 2015/5899/P subject to conclusion of this legal Agreement.
- 1.3 The Council is the local planning authority for the purposes of the Act for the area in which the Property is situated and considers it expedient in the interests of the proper planning of its area that the development of the Property should be restricted or regulated in accordance with this Agreement.
- 1.4 As local highway authority the Council considers the Highways Works to be carried out pursuant to this section 278 Agreement to be in the public benefit.
- 1.5 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

## 2. DEFINITIONS

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

- 2.1 "the Act" the Town and Country Planning Act 1990 (as amended)
- 2.2 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act
- 2.3 "the Development" creation of a new driveway entrance/exit, including a new vehicle crossover, demolition of existing entrance gate, erection of fencing across the existing entrance and the removal/replacement of trees as shown on drawing numbers Heritage Statement, Design & Access Statement, Tree report, Tree Location plan, 24818/16MR/P/02 Rev P1, 24818/16MR/P/01 Rev P1, 24818/16MR/P/03 Rev P1, CD508R/SK/07 Rev A, CD508R-AT-H02 Rev A & CD508R-AT-H01 Rev A.
- 2.4 "the Highways Contribution" the sum of £6,000.00 (six thousand pounds only) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in event of receipt for the carrying out works to the public highway and associated measures in the vicinity of the Property such works to include the following ("the Highways Works"):-
- (a) removal of the existing vehicular crossover and construction of a new

section of footway to match surrounding levels and materials.

- (b) construction of new vehicular crossover as per approved plans.
- (c) amendments to existing traffic management orders in the vicinity of the site on Millfield Lane in order to facilitate the relocation of the existing vehicular crossover (i.e. amendments to existing yellow lines and resident parking bays).
- (d) any other works the Council acting reasonably requires as a direct result of the Development

all works will be subject to final measure and any level adjustment required and for the avoidance of doubt the Council in accepting this sum does not undertake any responsibility in connection with any required statutory undertakers works and excludes any statutory undertakers costs

2.5 "the Implementation Date"

the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly

2.6 "the Level Plans"

plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway

- 2.7 "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense
- 2.8 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.9 "the Parties" mean the Council and the Owner
- 2.10 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 20 October 2016 for which a resolution to grant permission has been passed conditionally under reference number 2015/5899/P subject to conclusion of this Agreement
- 2.11 "Planning Obligations Monitoring Officer" a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof
- 2.12 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.13 "the Property" the land known as 16 Millfield Lane London N6 6JD the same as shown shaded grey on the plan annexed hereto

3. **NOW THIS DEED WITNESSETH** as follows:-

3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.

3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.

3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.

3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.

3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6 and 7 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.

3.6 The Council hereby agrees to grant the Planning Permission on the date hereof.

3.7 The Parties save where the context states otherwise shall include their successors in title.

4 **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **HIGHWAYS**

4.1.1 On or prior to the Implementation Date to:-

- (i) pay to the Council the Highways Contribution in full; and

- (ii) submit to the Council the Level Plans for approval.
- 4.1.2 Not to Implement or to allow Implementation until such time as the Council has:-
- (i) received the Highways Contribution in full; and
  - (ii) approved the Level Plans as demonstrated by written notice to that effect.
- 4.1.3 For the avoidance of doubt the Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate and does not undertake any responsibility in connection with any required statutory undertakers works and that the Highways Contribution excludes any statutory undertakers costs.
- 4.1.4 On completion of the Highway Works the Council may provide to the Owner a certificate specifying the sum (“the Certified Sum”) expended by the Council in carrying out the Highway Works.
- 4.1.5 If the Certified Sum exceeds the Highway Contribution then the Owner shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.
- 4.1.6 If the Certified Sum is less than the Highways Contribution then the Council shall within 21 (twenty one) days of the issuing of the said certificate pay to the Owner the amount of the difference.

5. **NOTICE TO THE COUNCIL/OTHER MATTERS**

- 5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Planning Permission has taken or is about to take place.
- 5.2 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 4 hereof quoting the Planning Permission reference 2015/5889/P the date upon which the Development is ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner



shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.

- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.
- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in electronic format (where practicable) to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such plan relates quoting the Planning Permission reference 2015/5889/P.
- 5.7 Payment of the Highways Contribution pursuant to Clause 4.1 of this Agreement shall be made by the Owner to the Council sending the full amount via electronic transfer (where practicable). The owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2015/5899/P. Electronic Transfer be made directly to the National Westminster Bank of Hampstead Village, Enfield Customer Service Centre, PO Box 145 Baird Road Middlesex EN1 1FN quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480

5.8 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and all parties other than the Council shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement upon presentation of an appropriate value added tax invoice addressed to the Owner.

5.9 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AIIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment is due or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that

$$A = B \times \frac{(Y-X)}{X}$$

5.10 All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Judd Street, London WC1H 9LP quoting the Planning Permission reference number 2015/5889/P and in the case of any notice or

approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.

- 6.2 This Agreement shall be registered as a Local Land Charge.
- 6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.
- 6.4 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 6.5 Neither the Owner nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 6.6 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.
- 6.7 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of development this Agreement shall forthwith determine and cease to have effect.

## 7. RIGHTS OF THIRD PARTIES

- 7.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner have executed this instrument as their Deed the day and year first before written

EXECUTED as a Deed on behalf of  
COLD AS ICE LIMITED )

a company incorporated in )

Gibraltar by JEAN STAW )  
for Abacus Services (Gibraltar) Limited )

and KEVIN BASTONE )

For Abacus (Gibraltar) Limited )

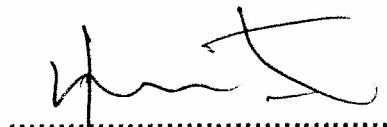
being persons who in accordance )

with the laws of that territory are )

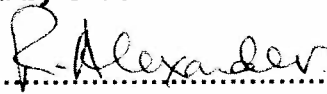
acting under the authority of )

the company )

  
.....  
Authorised Signatory

  
.....  
Authorised Signatory

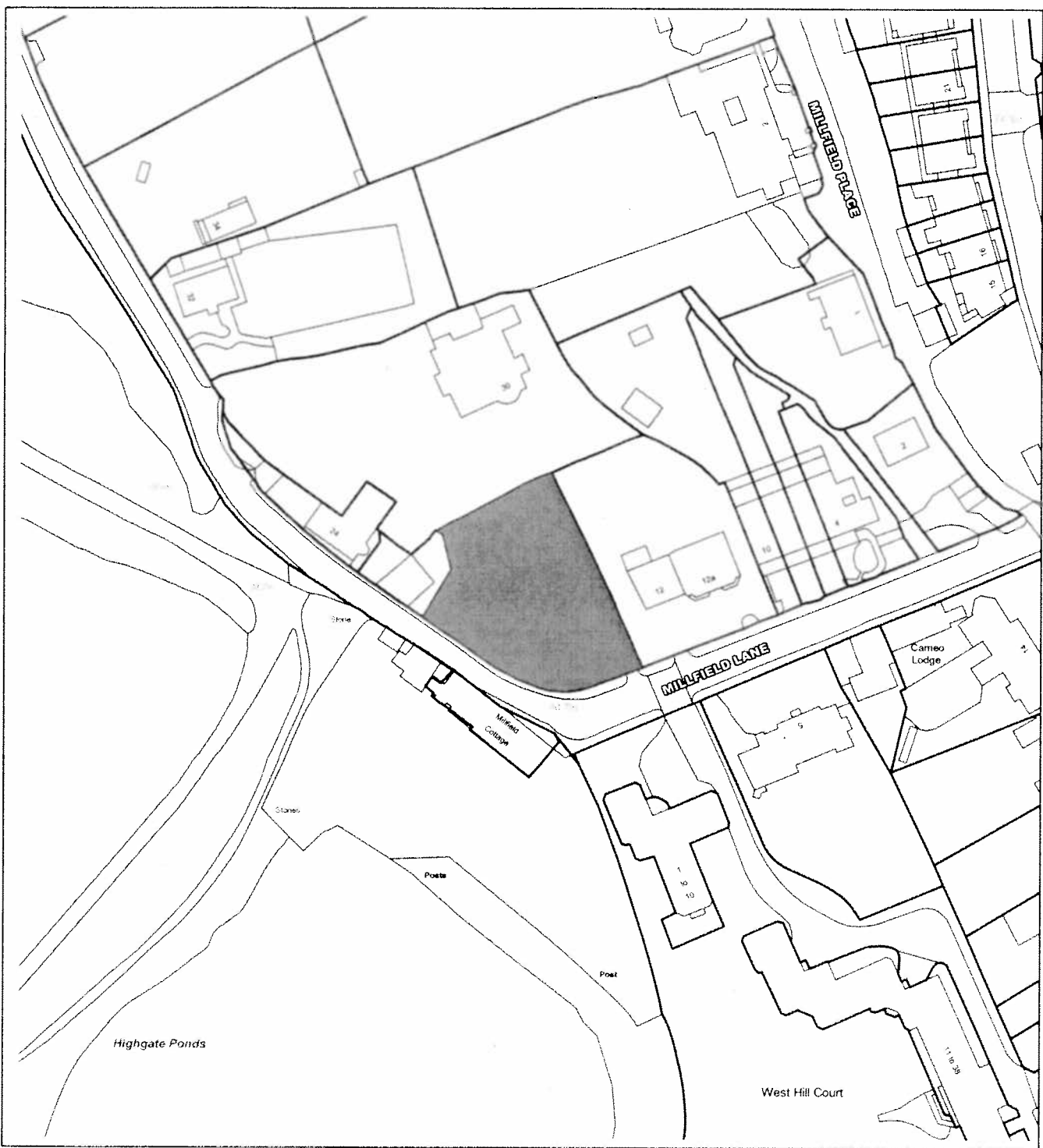
THE COMMON SEAL OF THE MAYOR )  
AND BURGESSES OF THE LONDON )  
BOROUGH OF CAMDEN was hereunto )  
Affixed by Order:- )

  
.....  
Authorised Signatory



Handwritten signature or initials.

16 Millfield Lane London N6 6JD



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Nathaniel Lichfield & Partners  
14 Regent's Wharf  
All Saints Street  
London  
N1 9RL

Application Ref: **2015/5899/P**

28 July 2016

Dear Sir/Madam

**DRAFT**  
**FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION**  
Town and Country Planning Act 1990 (as amended)

**DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT**

Address:  
**16 Millfield Lane**  
**London**  
**N6 6JD**

Proposal:  
Creation of a new driveway entrance/exit, including a new vehicle crossover, demolition of existing entrance gate, erection of fencing across the existing entrance and the removal/replacement of trees.

**DECISION**  
Drawing Nos: Heritage Statement, Design & Access Statement, Tree report, Tree Location plan, 24818/16MR/P/02 Rev P1, 24818/16MR/P/01 Rev P1, 24818/16MR/P/03 Rev P1, CD508R/SK/07 Rev A, CD508R-AT-H02 Rev A & CD508R-AT-H01 Rev A

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

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 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans Heritage Statement, Design & Access Statement, Tree report, Tree Location plan, 24818/16MR/P/02 Rev P1, 24818/16MR/P/01 Rev P1, 24818/16MR/P/03 Rev P1, CD508R/SK/07 Rev A, CD508R-AT-H02 Rev A & CD508R-AT-H01 Rev A.

Reason:

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

- 4 Prior to the commencement of the development, details of all proposed Access Facilitation Pruning shall be submitted to and approved in writing by the Local Planning Authority. The approved tree pruning works shall be carried out in accordance with BS399:2010.

Reason: To ensure the preservation of the amenity value and health of the tree in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the Development Policies.

- 5 Details shall be submitted to and approved by the Council before any works commence on site to demonstrate how all trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected during construction work. Such details shall follow guidelines and standards set out in BS5837:2012 and should include:
  - a tree protection plan (TPP) showing the location and nature of tree protection measures
  - appropriate working processes in the vicinity of trees
  - details of an auditable system of site monitoring
  - details of the design of building foundations
  - details, including dimensions and levels, of service trenches and other excavations on site in so far as these items may affect trees on or adjoining the site. The



development thereafter shall be implemented in strict accordance with the approved details.

Reason: To ensure that the Council may be satisfied that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

- 6 No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the Council. Such details shall include:
- Scaled plans showing all existing and proposed vegetation and landscape features
  - A schedule detailing species, sizes, and planting densities
  - Location, type and materials to be used for hard landscaping and boundary treatments
  - Specifications for replacement trees, including at least two specimens with a minimum size of Advanced Heavy Standard with a girth of 16-18cm, taking into account the standards set out in BS8545:2014.
  - Details of any proposed earthworks including grading, mounding and other changes in ground levels.
  - A management plan including an initial scheme of maintenance

The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To enable the Council to ensure a reasonable standard of visual amenity in the scheme in accordance with the requirements of policy CS14, CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 7 All hard and soft landscaping works shall be carried out to a reasonable standard in accordance with the approved landscape details [by not later than the end of the planting season following completion of the development or any phase of the development] [, prior to the occupation for the permitted use of the development or any phase of the development], whichever is the sooner. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the Council gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a satisfactory standard of visual amenity in the scheme in accordance with the requirements of policies CS14 & CS15 of the London Borough

- 8 No development shall commence until plans demonstrating the levels at the interface of the Development, the boundary of the Property and the Public Highway have been submitted to and approved by the Council in writing.

Reason: To ensure that the safety and efficiency and quality of the road network is maintained in accordance with policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP21 of the London Borough of Camden Local Development Framework Development Policies.

- 9 Prior to the use of the proposed entrance and exit driveway the on-street car parking space shown on approved drawing 24818/16MR/P/01 Rev P1 will be provided and retained.

Reason: To ensure that the use of the premises does not add to parking pressures in surrounding streets which would be contrary to policy CS5 and CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 10 Prior to the commencement of development details of porous surfacing (including its depth) for the vehicle access & parking area shall be submitted to and agreed in writing by the local planning authority.

Reason: To ensure that the quality of the highway is maintained in accordance with policies CS5 and CS11 of the London Borough of Camden Local Development Framework Core Strategy and policies DP16, DP18, DP19 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which 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, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 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 are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 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.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Supporting Communities Directorate

**DRAFT**

**DECISION**





DATED *5 September* 2016

**(1) COLD AS ICE LIMITED**

and

**(2) THE MAYOR AND BURGESSES OF  
THE LONDON BOROUGH OF CAMDEN**

**A G R E E M E N T**  
relating to land known as  
**16 MILLFIELD LANE LONDON N6 6JD**  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended)  
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