

DATED

10 MAY

2023

(1) PETER ROGER MORRIS AND EMILY JO KENNEDY

-and-

(2) KHIN THUZAR KYI

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 13 July 2022
Between the Mayor and the Burgesses of the
London Borough of Camden,
Peter Roger Morris and Emily Jo Kennedy, and Khin Thuzar Kyi
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
20 Vicar's Road London NW5 4NL

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

Tel: 020 7974 1824
Fax: 020 7974 2962

G:\case files\culture & env\planning\eg\s106 Agreements\ 20 Vicar's Road (DoV)
CLS/COM/EG/1800.2224
DoV v1 31.3.23

THIS DEED is made on the 10th day of MAY — 2023

BETWEEN

1. **PETER ROGER MORRIS AND EMILY JO KENNEDY** of Flat 7 Cliff Road Studios, 5 Cliff Road, London NW1 9AN (hereinafter called "the First Owner") of the first part
2. **KHIN THUZAR KYI** of Flat 9, 20-24 St. Matthew's Row, London E2 6DT (hereinafter called "the Second Owner") of the second part
3. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

WHEREAS:

- 1.1 The Council, the First Owner and the Second Owner entered into an Agreement dated 13 July 2023 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 *lbc* The First Owner is registered at the Land Registry as the freehold proprietor of part of the Property with Title Absolute under ^{current} title numbers NGL735879 and NGL940868 and as the leasehold proprietor of part of the Property with Title Absolute under title number BB23836.
- 1.3 The First Owner is the freehold and leasehold owner of and is interested in part of the Property for the purposes of Section 106 of the Act.
- 1.4 The Second Owner is registered at the Land Registry as the freehold proprietor of part of the Property with Title Absolute under title number BB23735.
- 1.5 The Second Owner is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.6 The Council is the local planning authority for the purposes of the Act 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 Deed.

- 1.7 A new planning application in respect of the Property and to amend the Original Planning Permission was submitted to the Council and validated on 22 October 2022 for which the Council resolved to grant permission conditionally under reference 2022/4577/P subject to the conclusion of this Deed.
- 1.8 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.
- 1.9 Without prejudice to the terms of the other covenants contained in the Existing Agreement the parties hereto have agreed to vary the terms of the Existing Agreement as hereinafter provided.

2. INTERPRETATION

- 2.1 All words and phrases defined in the Existing Agreement shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Existing Agreement shall remain in full force and effect save as varied by this Deed.
- 2.2 All reference in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement.
- 2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.
- 2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Agreement and shall not effect the construction of this Deed.
- 2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 2.6 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5 and 6 hereof all of which shall come into effect on the date hereof the covenants

undertakings and obligations contained within this Deed shall become binding upon the Owner upon the Implementation Date.

2.7 References in this Deed to the Owner and Mortgagee shall include their successors in title.

2.8 In this Deed the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.8.1 "Deed" this Deed of Variation made pursuant to Section 106A of the Act

2.8.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 13 July 2022 made between the Council, Peter Roger Morris and Emily Jo Kennedy, and Khin Thuzar Kyi

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 13 July 2022 referenced 2020/0625/P allowing the Demolition of existing dwelling and construction of two new residential dwellings (C3) as shown on drawing numbers: 201-110 rev A, 201-111 rev F, 201-112 rev G, 201-113 rev G, 201-114 Rev G, 201-120 rev G, 201-121 rev E, 201-122 rev D, 201-123 rev D, 201-300 rev J, 201-301 rev F, 201-302 rev J, 201-303 rev H, 201 304 rev J, 205-305, 205-306, 201-310 rev L, 201-312 rev E, 201-314 rev E, 201-315 rev C, 201-316 rev D, 201-318 rev E, 201-320 rev D, 20 Vicars Road Site History, Heritage Statement Rev v1March 2020, Flood risk report March 2020, Covering letter and planning statement February 2020, Daylight and Sunlight Study 22/01/20, Design and

Access Statement (part 1-10), Energy Statement January 2020, Noise Assessment 07/01/2020, Construction & Materials Statement, Air Quality Statement, Summary of Non-Material changes to the scheme since its approval in July 2020 (March 2021), The Cloud House - March Tweaks (March 2021).

2.8.4 "the Owner" means together the First Owner and the Second Owner

3. VARIATION TO THE EXISTING AGREEMENT

3.1 The following definitions contained in the Existing Agreement shall be varied as follows:

3.1.1 "Development" means variation of Condition 2 (Approved Plans) granted under planning reference 2020/0625/P dated 13/07/22 for (Demolition of existing dwelling and construction of two new residential dwellings) to involve changes to the design of the new houses as shown on the following drawing numbers:

Superseded: 201-300 rev P, 201-301 rev P, 201-310 rev P, 201-312 rev P, 201-314 rev P, 201-315 rev P, 201-316 rev P, 201-318 rev P, 201-320 rev P, 201-321 rev P, 201-322 rev P, 201-323 rev P, 201-324 rev P

Revised: 201_300 REV W, 201_301 REV W, 201_310 REV T, 201_312 REV Q, 201_314 REV R, 201_315 REV Q, 201_316 REV Q, 201_318 REV Q, 201_320 REV R, 201_321 REV R, 201_322 REV R, 201_323 REV R, 201_324 REV R

3.1.2 "Planning Permission" means the planning permission granted pursuant to the Planning Application (substantially in a form found attached) subject to the completion of this Deed

3.1.3 "Planning Application" means the application for Planning Permission in respect of the Development of the Property validated on 22 October 2022 for which a resolution to grant permission was passed conditionally under planning reference number 2022/4577/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2020/0625/P" shall be replaced with "Planning Permission reference 2022/4577/P".

3.3 In all other respects the Existing Agreement (as varied by this Deed) shall continue in full force and effect.

4. COMMENCEMENT

4.1 Without prejudice to the effect of Clause 3.5 in the Existing Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2022/4577/P.

5. PAYMENT OF THE COUNCIL'S LEGAL COSTS

5.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed

6. REGISTRATION AS LOCAL LAND CHARGE

6.1 This Deed shall be registered as a Local Land Charge

IN WITNESS WHEREOF the Council and the Owner has caused their respective Common
Seals to be affixed and the Mortgagee has caused this Deed to be executed as a Deed the
day and year first above written.

EXECUTED AS A DEED BY
PETER ROGER MORRIS
in the presence of:-

)
)
)

.....
Witness Signature

[Redacted Signature]

Witness Name:

ZOE PASKIN

Address:

34 MERCERS ROAD

Occupation:

N19 4PJ.

EXECUTED AS A DEED BY
EMILY JO KENNEDY
in the presence of:-

)
)
)

.....
Witness Signature

[Redacted Signature]

Witness Name:

ZOE PASKIN

Address:

34 MERCERS ROAD. N19 4PJ.

Occupation:

IN WITNESS WHEREOF the Council and the Owner has caused their respective Common
Seals to be affixed and the Mortgagee has caused this Deed to be executed as a Deed the
day and year first above written.

EXECUTED AS A DEED BY)
PETER ROGER MORRIS)
in the presence of:-)

.....
Witness Signature

Witness Name:

Address:

Occupation:

EXECUTED AS A DEED BY)
EMILY JO KENNEDY)
in the presence of:-)

.....
Witness Signature

Witness Name:

Address:

Occupation:

**EXECUTED AS A DEED BY
KHIN THUZAR KYI
in the presence of:-**

)
)
)

.....
Witness Signature

Witness Name:

Address:

Occupation:

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

)
)
)
)

.....
Duly Authorised Officer

EXECUTED AS A DEED BY
KHIN THUZAR KYI
in the presence of:-

)
)
)



.....
Witness Signature/



Witness Name:

HUAN KE

Address:

11 Bro. Ireland Close, London NW11 6DJ

Occupation:

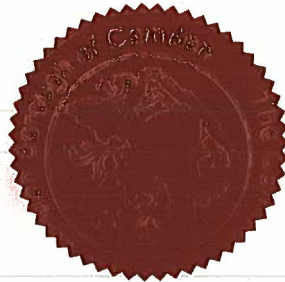
Solicitor England & Wales

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

)
)
)
)



.....
Duly Authorised Officer



Application ref: 2022/4577/P
Contact: Jaspreet Chana
Tel: 020 7974 1544
Date: 26 April 2023



Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk/planning

Mr Peter Morris
20 Vicar's Road
London
NW5 4NL

Dear Sir/Madam,

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:
**20 Vicar's Road
London
NW5 4NL**

Proposal:

Variation of Condition 2 (Approved Plans) granted under planning reference 2020/0625/P dated 13/07/22 for (Demolition of existing dwelling and construction of two new residential dwellings) to involve changes to the detailed design

Drawing Nos: Superseded: 201-300 rev P, 201-301 rev P, 201-310 rev P, 201-312 rev P, 201-314 rev P, 201-315 rev P, 201-316 rev P, 201-318 rev P, 201-320 rev P, 201-321 rev P, 201-322 rev P, 201-323 rev P, 201-324 rev P

Revised: 201_300 REV W, 201_301 REV W, 201_310 REV T, 201_312 REV Q, 201_314 REV R, 201_315 REV Q, 201_316 REV Q, 201_318 REV Q, 201_320 REV R, 201_321 REV R, 201_322 REV R, 201_323 REV R, 201_324 REV R

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 the original planning permission ref 2020/0625/P dated 13/07/2022.

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

- 2 For the purposes of this decision, condition no.2 of planning permission 2020/0625/P shall be replaced with the following condition:

REPLACEMENT CONDITION 2

The development hereby permitted shall be carried out in accordance with the following approved plans -

201-110 REV P, 201-111 REV P, 201-112 REV P, 201-113 REV P, 201-114 REV P, 201-120 REV P, 201-121 REV P, 201-122 REV P, 201-123 REV P, 201_300 REV W, 201_301 REV W, 201-302 REV P, 201-303 REV P, 201_304 REV P, 205-305, 205-306, 201_310 REV T, 201_312 REV Q, 201_314 REV R, 201_315 REV Q, 201_316 REV Q, 201_318 REV Q, 201_320 REV R, 201_321 REV R, 201_322 REV R, 201_323 REV R, 201_324 REV R. 20 Vicars Road Site History, Heritage Statement Rev v1 March 2020, Flood risk report March 2020, Covering letter and planning statement February 2020, Daylight and Sunlight Study 22/01/20, Design and Access Statement (part 1-10), Energy Statement January 2020, Noise Assessment 07/01/2020, Construction & Materials Statement, Air Quality Statement, Summary of Non-Material changes to the scheme since its approval in July 2020 (March 2021), The Cloud House - March Tweaks (March 2021), Proposal for Minor Amendments to the scheme since planning permission was granted on 13th July October 2022.

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

- 3 Before work is commenced, sample panels of all external facade details demonstrating the proposed colour, texture and detailed section drawings (at 1:10) of external elements and junctions that are visible from the street including parapet and ground level shall be provided and approved in writing by the local planning authority. The development shall be carried out in accordance with the approval given.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

- 4 Before work is commenced, detailed section drawings (at 1:10) of external windows, window CILs, doors and boundary treatments shall be provided and approved in writing by the local planning authority. The development shall be carried out in accordance with the approval given.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London

Borough of Camden Local Plan 2017.

- 5 Prior to the commencement of works, a method statement, including details showing how the rear walls will be disconnected from the existing building and how the new walls will abut the building shall be submitted to and approved in writing by the local planning authority. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy D2 of the Camden Local Plan 2017.

- 6 During implementation of the development, the applicant will have constructed and implemented all the measures contained in the Energy Assessment January 2020 (by Environmental Engineering Partnership consulting engineers) and such measures shall be permanently retained and maintained thereafter.

Reason: In order to secure the appropriate energy and resource efficiency measures in accordance with Policies G1, C1, CC1, CC2 and CC4 of the London Borough of Camden Local Plan 2017.

- 7 The development hereby approved shall achieve a maximum internal water use of 110litres/person/day. The dwelling/s shall not be occupied until the Building Regulation optional requirement has been complied with.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with Policies CC1, CC2, CC3 of the London Borough of Camden Local Plan 2017.

- 8 The proposed dwellings shall not be occupied until the cycle parking (4 long stay spaces) provision shown on the approved drawings is provided. The whole of the cycle parking provision shall be permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T1 of the London Borough of Camden Local Plan 2017.

- 9 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the (No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) [and Part 2 (Classes A-C)] of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the local planning authority.

Reason: To safeguard the visual amenities of the area and to prevent over development of the site by controlling proposed extensions and alterations in order to

ensure compliance with the requirements of policies G1, D1 and A1 of London Borough of Camden Local Plan 2017.

- 10 The external noise level emitted from plant, machinery or equipment with specified noise mitigation at the development hereby approved shall be lower than the lowest existing background noise level by at least 10dBA, by 15dBA where the source is tonal, as assessed according to BS4142:1997 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity

Reason: To safeguard the amenities of neighbouring noise sensitive receptors in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 11 Before the use commences, plant shall be provided with acoustic isolation, and anti-vibration measures. All such measures shall thereafter be retained and maintained in accordance with the manufacturers' recommendations.

Reason: To prevent the transmission of noise and vibration throughout the building and or into any neighbouring premises, thus safeguarding the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1, A4 of the London Borough of Camden Local Plan 2017.

- 12 Before the relevant part of the work is begun, detailed drawings (at 1:10) of rainwater drainage shall be submitted to and approved in writing by the local planning authority.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

- 13 The ground floor rear green roof shall not be used as a roof terrace.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policies A1 and D1 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reasons for granting permission:
Planning permission is sought for minor material amendment to planning permission ref. 2020/0625/P. The following changes are proposed:

Amended changes to 20 Vicars Road:

- " Internal reconfigurations
- " Change in size and shape of the two windows (from round opening to

arched fixed) on the west wall of the kitchen on the second floor to allow for more light in the kitchen

" Addition of a new large wall on rooflight directly above the kitchen on the top terrace floor to allow more light within the kitchen

" Lowering of the ceiling (by 210mm) in the kitchen on the second floor, so the curved balustrades on No.20s top roof terrace can meet building regulations of 1.1m

" Lowering of the height of the top floor tall arched windows on the façade of No.20 due to the change in ceiling height in the kitchen.

All the internal and external changes stated above are considered appropriate for the building and the surrounding area. The integrity and quality of the design of the proposed building would be retained and not compromised.

Amended changes to 20a Vicars Road:

" Internal reconfigurations

" Reconfiguration of the rooflights in the barrel-vaulted roofs on the ground floor, the five round rooflights change to three rectangular rooflights (two opening and one fixed) and one additional rooflight to serve the WC.

" Change in rooflight access to 20a's roof terrace, swapping of the boxlight for a hinged electric skydoor, to be enclosed within the arched metal balustrading, this will have limited visual impact on the building..

" Replacement of a small part of the rendered balustrade wall on the east side of 20a's roof terrace with a section of pale pink arched metal balustrading, enclosing the skydoor on both the south and east sides and topped with a 300mm wide metal cap to match the rendered wall beside it, this would be enclosed and not be visible.

" Change in construction method for the both buildings, from blockwork and steel structure to now be an insulated timber framed structure, built offsite .

" Change window frames and doors from aluminium to timber material for both properties.

" Lowering in height of the arch-shaped second floor windows on the south elevation of 20a, repositioning of the round windows on the north elevation (with frosting of one bathroom window), and raising of the barrel-vaulted roofs on the ground floor, this does not affect the overall design of the façade.

" Replacement of the sedum with metal roof (same as the curved element of the roof on 20a) on the barrel vaulted roofs on the ground floor rear of 20a.

- 2 All the internal and external changes stated above are considered appropriate for the building and the surrounding area. The integrity and quality of the design of the proposed building would be retained and not compromised.

The change in construction method would be for both new houses, the replacement timber framed structure would be considered to be a more sustainable approach and would reduce potential construction time. Also the change from aluminium windows and doors to timber windows and doors would be considered appropriate and acceptable.

The replacement of the sedum roof with a metal roof is now proposed. The

reasoning provided is because sedum can't be planted on a slope of more than 15 degrees, the area won't get enough sunlight due to its context between tall buildings and the areas between the curves will collect water, which will kill the sedum, therefore it is not feasible. The loss of the sedum roof has been justified.

No objections were received following statutory consultation. The planning history of the site and surrounding area were taken into account when coming to this decision.

The full impact of the scheme has already been assessed by virtue of the previous approval ref.2020/0625/P dated 13/07/2022. The detailed design, scale, form and siting of the alterations are considered acceptable.

The proposed development is in general accordance with Policies G1, H1, H6, H7, A1, A3, A4, D1, CC1, CC3, CC5, T1, T2 and T4 of the Camden Local Plan 2017. The proposed development also accords with the policies of the London Plan 2021 and the National Planning Policy Framework 2021.

Summary of Deed of Variation Planning Obligations

- " Payment in lieu of affordable housing contribution (£24,910)
- " Car free development for No.20
- " Construction Management Plan and a CMP implementation support contribution (£3,136)
- " CMP bond (£7,500)
- " Highways works contribution (£1,656.59)

This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings, conditions (and obligations where applicable) as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for the avoidance of doubt commences with the date of the original decision (and not this variation).

- 3 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).
- 4 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, 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.

- 5 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at www.camden.gov.uk) 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.

- 6 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 Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website 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.
- 7 This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings, conditions (and obligations where applicable) as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for the avoidance of doubt commences with the date of the original decision (and not this variation).

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 2021.

You can find advice about your rights of appeal at:

<https://www.gov.uk/appeal-planning-decision>.

Yours faithfully

Supporting Communities Directorate

