

## Report for Resolution

**Report to** Planning Applications Committee  
**Date** 19 January 2012  
**Report of** Head of Planning Services  
**Subject** 11/01893/VC First And Second Floors Of 13 And 15-21 Dove Street, And First And Second Floors Of 2-4 Lobster Lane Norwich NR2 1DE

**Item**  
**5(1)**

### SUMMARY

<b>Description:</b>	Variation of condition 4 from 'The premises the subject of this permission shall not be open to the public between the hours of 0300 hrs and 2000 hrs on Sundays, Bank Holidays and Mondays to Fridays and shall not be open to the public between the hours of 0400 hrs and 2000 hrs on Saturdays' to 'The premises the subject of this permission shall not be open to the public between the hours of 0400 hrs and 1900 hrs on any day' of: previous planning permission 11/00222/U 'Retrospective application for change of use of first and second floors of 13 and 15-21 Dove Street and first floor of 2-4 Lobster Lane from nightclub (Sui Generis) to Lap Dancing Club (Sui Generis), and proposed change of use of second floor of 2-4 Lobster Lane from restaurant (Class A3) also to Lap Dancing Club (Sui Generis)'
<b>Reason for consideration at Committee:</b>	Objection
<b>Recommendation:</b>	Approve
<b>Ward:</b>	Mancroft
<b>Contact Officer:</b>	Miss Sarah Platt Senior Planning Officer - Development Management 01603 212500
<b>Valid Date:</b>	16th November 2011
<b>Applicant:</b>	Mr Simon Warr
<b>Agent:</b>	Mr Chris Burt

## INTRODUCTION

### The Site

#### Location, Context and Constraints

1. The application site is located on the upper floors (first and second) of 13 and 15-21 Dove Street and the upper floors (first and second) of 2-4 Lobster Lane. The

ground floor of 13 Dove Street is occupied by Jarrold and 15-21 Dove Street is occupied by USA Nails, a retail unit (Cash Providers) and the rear rooms of Thorns accessed via Exchange Street.

2. It is located on the corner of Dove Street, Lobster Lane, St John Maddermarket and Pottergate and is a three storey building built from red brick with buff brick detailing around the windows and with decorative cornice between the upper floors and the roof. The building is accessed from Dove Street by a recessed doorway which when closed is enclosed by a black painted roller shutter door. There are no views into the club from the access point, only to the access staircase. There is a second exit point onto Lobster Lane for fire exit purposes only (as conditioned by condition 3 of the previous use permission 11/00222/U).
3. The site is within the City Centre Conservation Area and an area with pedestrian access priority. The ground floor units form part of the defined retail frontage of the Pottergate/Maddermarket Secondary Retail Frontage (defined by saved local plan policy SHO11). The building is a locally listed building and is identified as having a positive frontage in the conservation area.

### **Topography**

4. The land slopes away to the north and east towards Exchange Street, St Andrews Street and the River Wensum.

## Planning History

In 1977 under application reference **4/1977/0814/U** permission was granted for the 'Use of the first floor as an extension to "Club America". Since this date there have been numerous applications relating to the installation of new shopfronts and Advertisement Consent on the ground floor premises but no other applications relating to the upper floors.

In 2005 under amendments to the Use Classes Order 1987, nightclubs were removed from the D2 use class (Assembly & Leisure) and were classified as Sui Generis Uses, i.e. 'without class'. At this time Lap Dancing Clubs were also included as Sui Generis uses. There are no Permitted Development Rights or Permitted Changes of Use between two Sui Generis uses, making it necessary to apply for planning permission for any changes to, from, or between uses classed as Sui Generis.

Following an enforcement investigation of all Lap Dancing establishments in Norwich as a result of changing Licensing Regulations the following applications were made:

**11/00222/U** Granted a Change of use permission for a 'Retrospective application for change of use of first and second floors of 13 and 15-21 Dove Street and first floor of 2-4 Lobster Lane from nightclub (Sui Generis) to Lap Dancing Club (Sui Generis), and proposed change of use of second floor of 2-4 Lobster Lane from restaurant (Class A3) also to Lap Dancing Club (Sui Generis). The current application (11/01893/VC) seeks to vary condition 4 of this permission.

**11/01600/D** Discharged the following conditions on the use permission 11/00222/U: Condition 5a) details of maximum noise levels at first and second floors of 13 and 15-21 Dove Street and first floor of 2-4 Lobster Lane (areas in existing use) and also 5b) management scheme; Condition 6) - details of sound insulation at second floor of 2-4 Lobster Lane and Condition 7a) details of max. noise levels; 7b) management scheme at second floor of 2-4 Lobster Lane; 7c) details of amplification system at second floor of 2-4 Lobster Lane of previous planning permission (App. No. 11/00222/U).

Another application (reference **11/01894/VC**) is also under consideration and seeks to open the premises until 6am daily. It will be refused planning permission under delegated powers subsequent to this meetin.

## Equality and Diversity Issues

There are no significant equality or diversity issues in respect of this particular application.

## The Proposal

5. The application seeks an extension of hours of operation as conditioned under condition 4 of the previous permission granting the use of the premises (11/00222/U). The previous permission saw the hours of operation controlled as listed below:

- Sunday – Friday and all Bank Holidays: Opening 20:00hrs, Closing 03:00hrs
- Saturday: Opening 20:00hrs, Closing 04:00hrs.

6. The application to be determined by members today seeks two extensions to the originally conditioned hours of operation; firstly, the opening of the club from 19:00hrs (1 hour earlier) and closing at 04:00hrs (1 hour later) on any day.
7. It is important that it is understood that the use of these premises has already been established and is lawful. It is only the hours of operation that are for consideration.

## Representations Received

8. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. 7 letters of representation and 1 petition with 10 signatures have been received citing the issues as summarised in the table below.

9.

Issues Raised	Response
The site is opposite a games shop used by children.	See paragraph 13.
The health and safety of employees is of concern; hours worked, temptation for people to buy or sell services inappropriate for their age and the increased risk of abuse, exploitation and violence.	The applicant has submitted a rigorous set of policies used by the premises including 'In-House Security Audit Checklist and Fault Reporting', 'Exit & Dispersal Policy' and 'Instructions For Security and Mangers Policy'. It is also understood through discussions with the applicant that there is a Code of Conduct for staff and in particular dancers. The health & safety of employees is a matter for the management, and if required, the Police, and is not a material planning consideration.
Such a use objectifies and exploits women and is morally wrong.	This is a moral objection and is not material to planning considerations.
This area of the city in an inappropriate area of the city for such a premise.	See paragraph 13.

## Consultation Responses

10. Norfolk Police: Records updated and managed by Norfolk Constabulary Licensing regulation show that to date the premises have few recorded incidents in relation to disorder, and are not seen to have issues requiring police intervention. Although outside the Late Night Activity Zone, the premises have demonstrated that they have had no detrimental impact on the living conditions of nearby residents and there is no indication that there is a potential for increased threat of crime and disorder to the public. Therefore I recommend that the premises be granted the same conditions as those within the Late Night Activity Zone with varied opening hours to not open before 19:00hrs and not after 04:00hrs on any day. They would not support an application for the premises to be open past the hours of other premises which are set within the Late Night Activity Zone, i.e. with extended opening hours until 06:00hrs.
11. Environmental Health: The variation of times will have very little impact for noise. We therefore have no comments.

12. Transportation: There are no transportation implications for this application.

## **ASSESSMENT OF PLANNING CONSIDERATIONS**

### **Relevant Planning Policies**

#### **Relevant National Planning Policies**

PPS4 – Planning for Sustainable Economic Growth

PPG24 – Planning and Noise

#### **Relevant policies of the adopted East of England Plan Regional Spatial Strategy 2008**

SS6 – City and Town Centres

#### **Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011**

Policy 5 – The economy

Policy 6 – Access and transportation

Policy 7 – Supporting communities

Policy 11 – Norwich City Centre

#### **Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004**

EP22 - High standard of amenity for residential occupiers

AEC1 – Major art and entertainment facilities – location and sequential test

HBE8 - Development in Conservation Areas

#### **Supplementary Planning Documents and Guidance**

City Centre Conservation Area Appraisal (September 2007)

Draft National Planning Policy Framework (July 2011)

#### **Written Ministerial Statement: 23 March 2011: Planning for Growth**

Support of enterprise and sustainable development.

### **Principle of Development**

#### **Policy Considerations**

13. The use of the premises is not for consideration under this application. Its use has been assessed and approved under application reference 11/00222/U. The hours of operation are the only issue for consideration.

#### **Other Material Considerations**

14. The original opening hours condition was imposed as a result of consultation with Norfolk Police at which time their views (in part) were:

15. *In seeking to police areas of the City Centre which cater for the late night economy in an efficient and effective manner i.e. the Late Night Activity Zone as defined by saved policy AEC1 of the City of Norwich Replacement Local Plan (Adopted Version November 2004), Norfolk Constabulary has to take into account the size of the patrol area and recent history with regard to public disorder, which may include crime figures relating to the night time economy. Norwich City Council, under Section 17 of the Crime and Disorder Act, 1998, has a duty to minimise the potential for crime, disorder and public nuisance in their area.*

*With specific regard to Planning, this duty should be carried out in accordance with the key principles of local and national planning policies. Given these requirements, Norfolk Constabulary request that planning permissions for late night uses be restricted by conditions so that premises are not permitted to open past 04:00hrs on any day given the constraints of the Police cover in the Late Night Activity Zone with the additional Police resources dedicated to the Late Night Activity Zone finishing at 05:00hrs. Additionally, Norfolk Constabulary requests that no premises outside the Late Night Activity Zone should be permitted to be open past 12:00hrs (midnight), unless it can be clearly demonstrated that there would be no detrimental impact on the living conditions of nearby residents or that there is no potential threat of crime and disorder to the public.*

16. The view was taken by officers when considering the original permission for the use of the site that despite the application site *not* being set within the Late Night Activity Zone, the proposed hours of operation (8pm to 3am Sunday to Friday and 8pm to 4am on Saturdays) were acceptable. The area immediately surrounding the premises is characterised by a mix of commercial and early evening uses. The proposed use (Lap Dancing Club) was considered to be an appropriate town centre use for such a site in accordance with PPS4. Notwithstanding that lap dancing clubs generally have relatively low levels of noise generation and that there were no residential dwellings in the immediate locality of the premises at the time of the application it was nonetheless considered prudent to ensure that future music levels were restricted to limits to secure an appropriate level of residential amenity in the area. Appropriate conditions were applied and have all been discharged under application reference 11/01600/D with the consultation and agreement of Environmental Health Officers.
17. The submissions in support of this application include copies of the staff and management policies with regards to health and safety, exit and dispersal and an anti-theft policy. In addition to this, a statement of support from the Detective Sergeant 3215 Vikki Flatt of Norfolk Constabulary has also been submitted. This statement details that since April 2009 (2 yrs 8 months) there have been only 9 incidents at the premises which equates to approximately 1 incident every 3 months. In addition, it is confirmed by D/Sgt Flatt (3215) that a number of the reported incidents have been pro-active approaches by door staff and that the Police have received no noise complaints or incidents relating to the dispersal of patrons from the premises.

## **Impact on Living Conditions**

### **Noise and Disturbance**

18. At the time of the original use application there were no residential dwellings in the immediate vicinity. In 2010 under application reference 10/01782/U a three bedroomed residential flat was proposed in the upper floors of 9-11 Dove Street, immediately adjoining the application premises. Upon assessment several concerns were raised with the applicant and agent with regards to the conversion to residential use and the application was withdrawn. It is understood that there is a current enforcement case being investigated as the conversion to residential has been carried out without permission (EH11/30292). However, the presence of such a noise sensitive use must be considered.
19. There is a noise assessment submitted with the application which details the adjacent residential property and the affects of the use on it. The report

demonstrates and it has been agreed by Environmental Health Officers, that there is no detrimental impact on the residential premises through the operation of the Lap Dancing premises in terms of noise from the sound system. The internal layout of the premises is such that there are rooms on the party wall with the residential dwelling which act as 'buffers' to the transference of noise, e.g. changing rooms, toilets, and offices, and maximum sound levels have been agreed to such a level so as not to cause nuisance but still allowing for the premises to operate successfully. Environmental Health has confirmed that there are no arising noise implications as a result of the extension of the hours of operation to 7pm opening and 4am closing.

### **Crime, Disorder and Public Nuisance**

20. With regards to the potential for crime, disorder and public nuisance, the club operates presently until 3am and has very few reported incidents of crime and disorder. The supporting statement of the Police states that whilst all premises are encouraged to strive to reduce incidents, the number of incidents from this premise is at a 'pleasing level'.
21. In addition to this, and taking into consideration the Police's comments on the original application, and as made here, it has been sufficiently demonstrated to their agreement that there is no detrimental impact on the living conditions of nearby residents and that given the previous history of the site in terms of reported incidents involving the Police, it is not considered that the extension of opening hours as proposed by this application, will increase the potential threat of crime and disorder to the public. This is a one-off case where the owner/manager has been able to clearly demonstrate that there is no detrimental impact. In addition, and due to the location of the premises in a quiet back street in the city centre, the premises does not attract the large numbers of patrons associated with other premises of a similar nature within the Late Night Activity Zone. In addition to this, if the premises close at 4am then there is still the potential for the Police to respond quickly given that they have dedicated resources in the nearby Late Night Activity Zone on the busiest nights of the week (Fridays and Saturdays).

### **Transport and Access**

22. There are no transportation implications as a result of the extended opening hours proposed by this application.

### **Conclusions**

23. The extension of hours of operation of the premises is considered acceptable and has the support of both Norfolk Police Licensing Regulation and the Crime Reduction Partnerships Department. There are not considered to be any arising detrimental impact on residential amenity or increased potential for the threat of crime and disorder as a result of this extension of operation hours.
24. The variation of Condition permission will effectively re-grant the previous permission but with the appropriate condition varied, therefore, all conditions not discharged or still requiring compliance must be re-applied to this permission.

## RECOMMENDATIONS

Recommend APPROVAL of Variation of Condition application 11/01893/VC subject to the following conditions being re-applied from the original permission (11/00222/U):

- 1) The change of use of the second floor of 2-4 Lobster Lane from a restaurant (use class A3) to a Lap Dancing Club (Sui Generis) as shown on plan no. G/100/07 must be implemented not later than the 21<sup>st</sup> June 2014.
- 2) The development hereby approved shall be carried out in accordance with the plans and details as specified on this decision notice.
- 3) The door to Lobster Lane shall only be used for fire exit purposes and shall not be used in any way or at any time for entry or exit other than in an emergency.
- 4) The premises the subject of this permission shall not be open to the public between the hours of 04:00hrs and 19:00hrs on any day.

Additional conditions relating to already discharged elements of previously discharged conditions (but requiring retention in perpetuity) will also be necessary to be re-imposed. These will be reported at the Committee meeting.

Reasons for Approval:

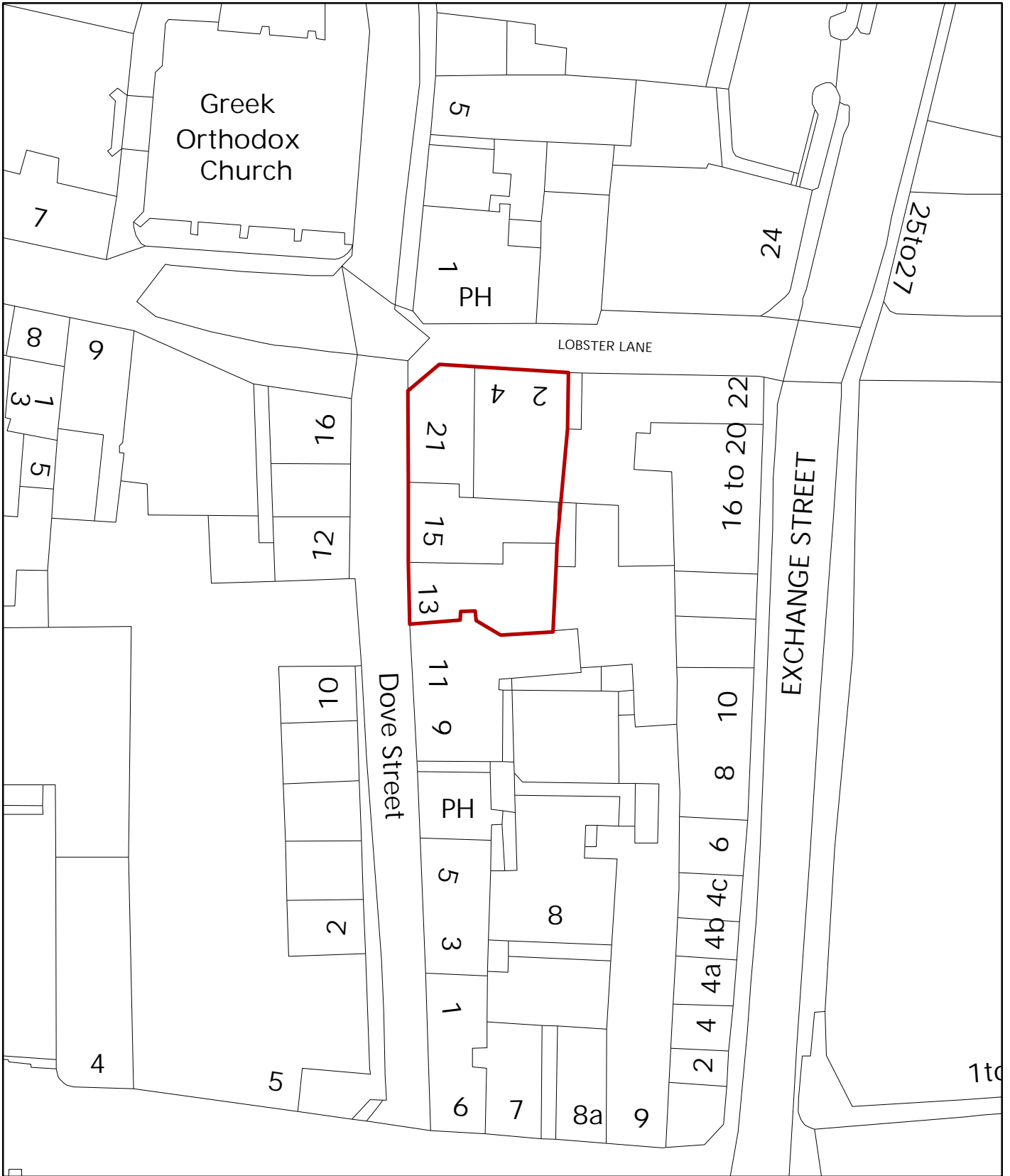
1) The sui generis use of the upper floors of numbers 13 and 15-21 Dove Street and the first and second floor of 2-4 Lobster Lane has been operating for some time and is considered to be complementary to the wider evening economy offer in the City Centre and its location is considered sustainable given the excellent public transport links and cycle parking provision in the immediate area. The location also offers discretion for its patrons given its position in a relatively quiet area of the city during the later times of the evening, and such a use is not considered to have any detrimental impact on the character of the City Centre Conservation Area.

Despite the location being outside the defined Late Night Activity Zone where such uses would normally be directed, the proposals are not considered in principle to lead to any unacceptable detrimental impacts on nearby residential amenity or neighbouring commercial uses, as the use of conditions will ensure the impacts of the extended boundaries will be contained and any fear of crime should not spread into the surrounding area and as such subject to the conditions imposed there are not considered to be any arising issues of loss of amenity to any neighbouring premises as a result of this permission.

Therefore the proposals are considered to be in accordance with the objectives of PPS4 and PPG24, policies SS1, SS6 and ENV7 of the East of England Plan (May 2008), Policies 2, 6, 7 and 11 of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk (March 2011), and saved policies SHO11, TRA3, TRA5 and EP22 of the City of Norwich Replacement Local Plan (Adopted Version November 2004).



2) It is considered that it has been sufficiently demonstrated to the satisfaction of officers and the Police Authority that the extension of operational hours of the application premises will not result in a detrimental impact on the living conditions of nearby residents and that given the previous history of the application site and its operations in terms of reported incidents involving the Police, it is not considered that there will be an increase in the potential threat of crime and disorder to the public as a result of an acceptance of this proposal. This is a one-off case where the owner/manager of the club has been able to clearly demonstrate that there is no detrimental impact. In addition, and due to the location of the premises in a quiet back street in the city centre, the premises does not attract the large numbers of patrons associated with other premises of a similar nature within the Late Night Activity Zone. It is therefore considered that the proposals are in accordance with the objectives of PPG24, and saved policy EP22 of the City of Norwich Replacement Local Plan (Adopted Version November 2004). The Local Planning Authority's duty of care under Section 17 of the Crime and Disorder Act has also been taken into account and it is not considered that the proposed extension of operational hours of this premise will result in an increase in crime and disorder in the area.



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Planning Application No 11/01893/VC

Site Address First and second floors of 13 & 15-21 Dove Street  
and first and second floors of 2-4 Lobster Lane

Scale 1:500



**NORWICH**  
City Council

PLANNING SERVICES

