

Protecting Music Venues whilst Delivering Housing – the Agent of Change

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Key Issues:

Delivering Growth

Maintaining a diverse cultural offer

Agent of Change

Case Studies

Deeds of Easement – the solution?!



Recent Controversy

Night & Day: Manchester music venue sweating on noise court hearing outcome

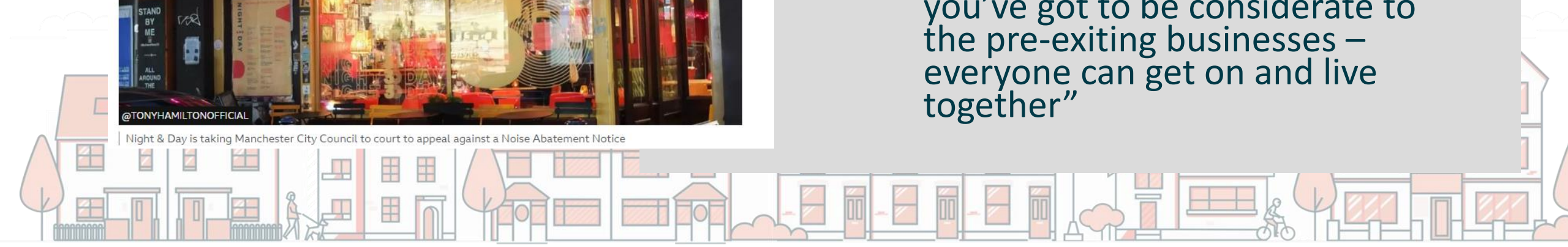
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| Night & Day is taking Manchester City Council to court to appeal against a Noise Abatement Notice

“Any soundproofing issues should have been resolved between the council and property developers at the planning stage before the resident moved in”

“When these changes (people living in the city centre) occur, you’ve got to be considerate to the pre-existing businesses – everyone can get on and live together”



“We have set ourselves another stretching target of 2,000 homes a year by 2024 and we have set up the ‘Project 1,000’ project board who’s sole aim is to deliver 1,000 affordable homes a year by 2024.”

Mayor Marvin Rees

State of the City address, October 2021



National Planning Policy Framework para 187

“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as..pubs, music venues..). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”

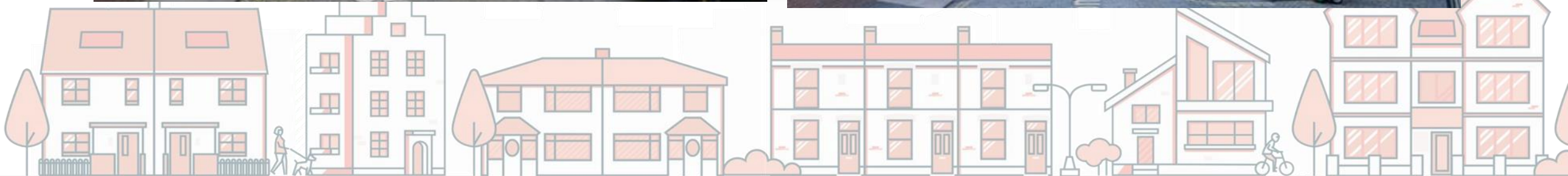
Case Study 1: The Fleece

Existing office benefitting from new “Prior Approval” permitted development rights to change to residential without Planning Permission



Case Study 1: The Fleece

Change in neighbours!



Case Study 1: The Fleece

Local MPs raised this issue and the legislation eventually changed to help avoid these particular circumstances happening again

Prior Approval now includes “impacts of noise from commercial premises on the intended occupiers of the development”

B24/7 NEWS WHAT'S ON **CULTURE** FOOD & DRINK MORE

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THE FLEECE

MUSIC / NEWS

THE FLEECE MENTIONED IN HOUSE OF COMMONS

By MARTIN BOOTH, Friday Oct 17, 2014

B News ▶ Bristol News ▶ Politics

Victory for live music as venues are given protection from future Bristol city centre flats

The agent of change principle will come into law meaning developers must properly soundproof new properties

NEWS By [Patrick Daly](#) Bristol Post parliamentary correspondent
21:30, 18 JAN 2018 | UPDATED 22:11, 18 JAN 2018

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Case Study 2: Temple Quarter & St Philips



What is a Deed of Easement?

A Deed of Easement is a legal agreement that allows residents to agree to a certain level of noise, protecting venues from complaints below that level (an Easement being a right exercised over a piece of land or property for the benefit of another).

The DoE becomes binding on any occupiers who purchase the residential units, thus disbaring them from complaints of nuisance, provided that the venue continues to operate in accordance with the easement terms.

Case Study 2: Temple Quarter & St Philips

Feeder Rd / Albert Rd Appeal decision (ref: 3279920)

“Use of the former Mosaic Factory as a nightclub (Motion) gives rise to potential noise issues for future residents, as well as having implications for the ‘agent of change principle’.”

“It is my understanding from the evidence before me that Motion operates within the parameters of its licence and that acceptable acoustic mitigation is proposed within the development, including an enhanced façade and attenuated ventilation measures. That is a matter that can be secured by planning condition.”



Case Study 2: Temple Quarter & St Philips

Silverthorne Lane Call-in Decision (ref: 3264641)

“The Secretary of State is mindful of the potential for conflict between the proposed homes and operation of the nearby Motion nightclub. Therefore and in response to representations received from the applicant and Local Planning Authority, he considers that due to the requirement for updated noise surveys to inform the Deed of Easement it is not possible to complete and assess the Deed before the grant of planning permission. He considers that it is necessary and appropriate to address this matter by way of a condition. The Secretary of State considers that this condition complies with the policy test set out at paragraph 56 of the Framework”.



Case Study 3: The Trinity Centre



Case Study 3: The Trinity Centre



Learning Points

- Deeds of Easement – not the solution to all situations and untested in the long term
- In making planning decisions the resulting impact of an existing noise generating use must be assessed. Measures to protect the amenity of future residents must be considered and be evidence based.
- Encourage collaboration – nobody wins if it becomes Housing v Music Venues
- Work closely with your Licensing & EH teams
- Agent of Change has highlighted the importance of protecting cultural venues as part of a rich mix of uses in thriving cities BUT it doesn't stop people complaining AND it can't prevent Local Authorities from carrying out their statutory duties.





Thank You!