

West Wiltshire District Council

Draft policy on the licensing of sex establishments

1. Introduction

1.1 All sex establishments are required to be licensed by the local authority where the relevant legislation has been adopted. The Act gives some guidance on the grounds to be considered when determining an application for a sex establishment.

1.2 This policy applies to issues relating to the licensing of sex establishments, which are defined by the Local Government (Miscellaneous Provisions) Act 1982 as sex cinemas or sex shops. Sex shops are defined in further detail in the Act.

2. The application process

2.1 The licence application form (ENVF77.TEC) must be completed and returned with the appropriate fee as set by the council's fees & charges.

2.2 The applicant must advertise the application by way of a public notice placed in the local newspaper within 7 days of the date of the application, in a format agreed by the council. They must also place a notice on or near the premises for a period of 21 days beginning on the date of the application.

2.3 Objections in writing, stating the relevant grounds for the objection, will be considered if received within 28 days of the advert.

2.4 The council will carry out a consultation process where views are sought from:

- a) The local constabulary
- b) The local town or parish council
- c) The local district council ward member(s)
- d) The local Chamber of Commerce
- e) The local Crime and Disorder Partnership
- f) Social services - adult care

3. Consideration of the application

3.1 The Act specifies a number of issues which should be considered:

- a) Unsuitability of the applicant by reason of conviction or any other reason
- b) The number of sex establishments in the relevant locality is equal to or greater than the appropriate number agreed by the council
- c) The grant of a licence would be inappropriate having regards to the character of the relevant locality, the use to which any premises in the vicinity are put, or the layout, character or condition of the premises

3.2 Under the legislation a local authority cannot have regard to the morality of sex establishments. Its approval or disapproval of sex establishments is not a matter which can be considered.

3.3 Straightforward objections on the grounds that sex establishments should not be allowed will not be taken into account in assessing applications for such premises.

3.4 In addition this policy gives further guidance in relation to 3.1 (c) above.

a) A licensed sex shop will only be permitted in exceptional circumstances if it will be situated within “inappropriate proximity” to: -

- 1) A place of religious worship / education; or
- 2) A pre school facility / school; or
- 3) A higher education establishment where students under 18 attend; or
- 4) Any area consisting substantially of residential accommodation; or
- 5) An enclosed shopping mall, arcade or centre; or
- 6) A market; or
- 7) A public building open to the general public; or
- 8) A community facility or public buildings, including but not limited to, swimming pools, leisure centres, public parks, youth centres/clubs and sheltered housing; or
- 9) A location where children may be at risk but not previously referred to in 1-8 above (for example a designated cycle or pedestrian route to school).

Note: “inappropriate proximity” is defined as a distance of 200 metres in direct line of sight between the proposed establishment and any locations listed in 1-10 above, or 100 metres distance if there is no direct line of sight.

- b) Each application shall be considered on its own merits, following the appropriate consultation, and in accordance with this policy.
- c) Any sex establishment licence may be granted subject to Conditions imposed by the Council, which may differ depending on location. Therefore an application should not be refused if conditions could adequately address any area of concern.
- d) Any initial sex establishment licence shall be granted for 12 months and will be subject to review after 6 months. Any relevant complaints or breaches of conditions will be considered at any time.

In addition to the suitability of the location;

- e) No sex shop will be permitted within a 6-mile radius of another such licensed establishment.

3.5 Applications shall be decided by way of a hearing. This will be held by the Licensing Committee. The applicant shall be invited to present their case to any hearing which may take place.

4. Renewal or transfer of licences

4.1 All licences shall be reviewed at the time of renewal or following a request for transfer, to consider any complaints or objections received relating to relevant issues under the legislation, any breaches of conditions and this policy. The police will comment on the suitability of the applicant in relation to a transfer.

4.2 Where an existing licence is due for renewal, and no justified complaints or breaches of conditions have occurred, then the licence will be renewed.

Note

Renewals and transfers need to follow the same legal process of advertising etc. as an initial application as detailed above.