

West Wiltshire District Council

Cabinet

2 June 2004

Sex establishments policy

1. Purpose

This report informs the Cabinet of the results of a public consultation exercise on the draft policy on the licensing of sex establishments (which is attached as Appendix 1). It gives members the opportunity to debate the key issues of inappropriate location, density, and appropriate number of such establishments in the policy.

2. Background

All sex establishments (sex shops and cinemas) need to be licensed by the Council under the Local Government (Miscellaneous Provisions) Act 1982.

Currently there is one sex shop in the district, but in the last few months an enquiry was received from another potential applicant. It is recognised that this is a sensitive and contentious issue, and one on which there is currently no policy.

The legislation prevents the council from considering the morality of sex establishments. Its approval or disapproval is not a matter which can be put into the equation. Whilst the act gives some guidance on the grounds to be considered when determining an application for such an establishment, it is considered good practice to let potential applicants know in advance what is likely to be the view of the licensing authority. The intention is the policy would not be retrospective.

A draft policy was produced in February in consultation with the Portfolio Holder, Richard Wiltshire. The draft was then circulated for comments to a wide list of parties including District Councillors, Town and Parish Councils, the police, local chambers of commerce, church groups and the owner of the existing sex shop in Trowbridge. It was also placed on the Council's website as part of the consultation process.

3. Key issues

Twenty responses were received to the consultation, which are summarised in Appendix 2, representing the views of both individuals and groups. Generally the responses supported the policy, but there were comments on the issues highlighted below. The Portfolio Holder and officers have considered these and some amendments were made to the draft policy as a result.

Consultation on individual applications: The policy details the application process, and the parties to be consulted specifically over individual applications in addition to the press advertisement and site notice. These are: the local constabulary, the local town or parish council, the local district council ward member(s), the local Chamber of Commerce, the local Crime and Disorder Partnership and Social services - adult care.

Inappropriate localities: The policy specifies a number of localities where it is considered that a sex establishment would be inappropriate. The nine localities are listed in section 3.4 of the policy.

Density of sex establishments: The policy also gives a figure, based on the distance between establishments, to restrict the density of premises in the district. The figure of six miles has been specified in the policy to prevent more than one establishment in any one town.

Appropriate number: The legislation allows an authority to set an “appropriate number” of sex establishments for a locality, which can be set at zero. However case law has shown that a locality must be smaller than a council’s administrative area. Some authorities have set limits for specific streets for example.

Determination of applications: Members also expressed the view that applications should be determined by the Licensing Committee.

Financial implications: There are no direct implications of adopting a policy. Applications do attract a fee which is currently £1035, with an annual renewal charge of £518. Adoption of the policy will reduce the time and cost of consideration of applications.

Legal issues: The legislation allows for guidance to be given on issues to be considered.

Human rights: The policy restricts the grant of licences in “inappropriate locations” having regard to the character of the locality and the use of premises in the vicinity. This will have an impact on applicants’ human rights as it may deny them from being able to set up sex establishments in specific locations. However, the Legal Services Manager and I are satisfied that the policy is justified, and that the correct balance has been reached between the rights of the applicants and the public.

4. Options

The cabinet will have the opportunity to comment on, and amend the draft policy. There are options to change the policy on the key issues above. The areas of particular significance are those of density and the potential to set an appropriate number of establishments in any area of the district.

5. List of background papers

Consultation letters, responses and draft policy.

6. Recommendation

The cabinet is recommended to:

- Agree the policy, and
- Refer it to Council for approval.

† Plain English guidance given

Richard Wiltshire
Portfolio Holder - Environmental Services

John Carter
Head of Regulatory Services

28 April 2004

List of Appendices

Appendix 1: Draft policy

Appendix 2: Summary of consultation responses