

## **West Wiltshire District Council**

### **Council**

**23 June 2004**

### **Sex establishments policy**

#### **1. Purpose**

This report seeks Council approval of a Sex Establishments Policy. The proposed policy is attached as Appendix 1.

#### **2. Consideration by Cabinet**

Cabinet considered the issue at its meeting on 2 June, and agreed the draft Sex Establishments Policy, subject to:-

- The amendment of section 3.4(a) to read "No new licensed sex shop will be permitted if it will be situated within "inappropriate proximity" to:-" (note that the list of nine locations and footnote as set out in the policy remain unchanged)
- the deletion of section 3.4(e) which read "No sex shop will be permitted within a 6 mile radius of another such licensed establishment." and refers the matter to Council for approval.

#### **3. 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.

#### 4. Key issues

The responses received to the consultation 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, 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 gave a figure, based on the distance between establishments, to restrict the density of premises in the district. This section has subsequently been deleted from the policy by Cabinet.

***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.


#### 5. List of background papers

Consultation letters, responses and draft policy.

## **6. Recommendation**

The Council is asked to:

- Approve the policy

 Plain English guidance given

John Carter  
Head of Regulatory Services

3 June 2004

### **List of Appendices**

Appendix 1: Draft policy

Appendix 2: Summary of consultation responses