

Bolsover District Council

General Licensing Committee

07 October 2021

Local Government (Miscellaneous Provisions) Act 1982: Approval of Sex Establishment Policy

Report of the Joint Assistant Director (Environmental Health)

Classification: This report is public

Report By: Charmaine Terry

Contact Officer: Charmaine Terry

PURPOSE / SUMMARY

To consider the responses to the Sex Establishment Policy consultation and approve the draft Sex Establishment Policy for adoption at full Council.

RECOMMENDATIONS

1. The General Licensing Committee note the outcome of the Public Consultation on adoption of the powers on the control of sex establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, and the strong feelings expressed by respondents to the consultation.
2. That the Joint Assistant Director (Environmental Health) be required to make a report to the next full Council meeting to consider a recommendation to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) together with the draft policy.

Approved by the Portfolio Holder – n/a

IMPLICATIONS

Finance and Risk: Yes No

Details:

There will be a minor cost associated with the publishing of statutory notices.

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

Having a policy which is clearly detailed and compliant with the legislation, fit for purpose and clear to applicants could assist in implementing rules while preventing a legal challenge by way of appeal or judicial review, with associated costs in defending the same.

On Behalf of the Solicitor to the Council

Staffing: Yes No
Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	All
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	No Details:

Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.

All

REPORT DETAILS

1 **Background** *(reasons for bringing the report)*

- 1.1 Under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) and section 27 of the Crime and Policing Act 2009 (the 2009 Act) the Council can adopt legislation and policies which give them the power to control the number and location of sex establishments in its area.
- 1.2 On 11 September 2019 the Council resolved that a notice of adoption of the 1982 and 2009 Acts be published in respect of Sex Establishments, the General Licensing Sub Committee would determine any applications for Sex Establishment licences and a draft policy be prepared and submitted to a future Licensing Committee for member approval following a 6 week consultation.
- 1.3 Following consideration of a draft policy through the General Licensing Committee, a 13 week public consultation opened between 1st March 2021 to 28 May 2021, in order to enable as broad a consultation with partners and stakeholders as well as the public. The Consultation was carried out through the Ask Derbyshire website, publicised through press releases and on the Council's social media platforms as well as contacting a range of stakeholders directly. The full list of direct consultees can be found attached at Appendix C to the Draft Policy which is attached as **Appendix 1**.
- 1.4 A full evaluation of the responses has been carried out and the evaluation, together with copies of the consultation responses can be found attached as **Appendix 2, Appendix 3 and Appendix 4**.
- 1.5 In summary, the respondents considered that:
 - That the draft policy is adequate, appropriate and clear;
 - That the draft policy is fair to both residents and licensed premises;
 - That there is likely no suitable area within the district for a sex establishment; and
 - That sex establishments are not desirable within the district and the adoption of the legislation is not necessary.
- 1.6 Whilst some respondents felt that the adoption of the legislation is unnecessary, the response to the consultation showed an overwhelming objection to sex establishments being established within the district. If the legislation is not adopted, the Council's powers to regulate such premises will be limited to those in planning and alcohol licensing legislation.

2. Details of Proposal or Information

- 2.1 From the responses received it is clear that the subject is an emotive one and the controls proposed through the draft policy are intended to meet that concern. Following the consultation, amendments have been made to the draft policy and a copy of the updated draft policy can be found attached as **Appendix 1**. The amendments to the draft policy were as follows:
- a. Sections 2.8 to 2.25 have been amended to reflect the results of the questionnaire and to establish that residents felt there may be no locality within the district that would be suitable for a sex establishment.
 - b. Sections 3.1, 4 and 5 have been updated to include a link to the website, details of the proposed delegations and location of contact details for the licensing section.
 - c. Condition 63 to the Standard Conditions for Sexual Entertainment Venues as set out in Appendix B to the draft policy has been amended. The condition has been strengthened by including a requirement that licence holders carry out a risk assessment to identify the number of SIA door staff required with the minimum number being 2.
- 2.2 In order to adopt the legislation and the draft policy the Council must now follow the formal adoption procedure set out below:
- Pass a resolution at full Council to adopt the legislation from a specified date (to be no earlier than 28 days following the publication of the notice below)
 - Publish a notice in a local newspaper for 2 consecutive weeks.
- 2.3 As specified in the draft policy, a local area profile will be prepared and published on the website together with the policy. This will be prepared as close to adoption as possible to ensure the information is an up to date reflection of the local area.
- 2.4 As a result of the public consultation it has been determined that there may be no locality within the district where it would be appropriate to licence a sex establishment, and therefore any application for the grant, renewal, transfer or variation of a licence will be determined by the Licensing Sub-Committee.

3 Reasons for Recommendation

- 3.1 Adopting the above legislation will give the Council more powers to regulate and control Sex Establishments within the district. This will in turn provide greater community confidence that any establishments which are proposed within the district undergo appropriate scrutiny and challenge and can only operate within the limits of the Council's policy.

4 Alternative Options and Reasons for Rejection

- 4.1 The alternative option is to not adopt the legislation and draft policy. However, this would limit the Council's powers to regulate sex establishments and may have negative effects on community confidence and safety and have other negative reputational impacts on the district.

DOCUMENT INFORMATION

Appendix No	Title
1	Draft Policy
2	Sex Establishment Policy: Consultation Responses
3	Ask Derbyshire Responses
4	Other responses
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Home Office Sexual Entertainment Venues Guidance for England and Wales 2010	
https://www.stratford.gov.uk/doc/209259/name/SexualEntertainmentVenueHomeOfficeGuidance.pdf	