

**Bolsover District Council**

**Sex Establishment Policy: Consultation Replies (Other)**

**Response received via e-mail on 06 May 2021:**

6 May 2021

**Bolsover District Council**

**The Arc**

**Clowne**

**Consultation on Sex Establishment Draft Policy & Procedure 2020-2023**

(This representation comprises six (6) pages)

**Ref:**

**Local Government (Miscellaneous Provisions) Act 1982**

**Policing and Crime Act 2009**

What follows underlines my objection to the proposal by Bolsover District Council (BDC) to adopt a policy resolution for the introduction of powers to exercise regulation under a licence for premises and businesses providing sexually stimulating services and products.

Planning and Licencing applications for subject premises and services should always be refused anywhere within the BDC local authority area.

The following statements are principles which BDC states are of the highest priority.

1. Applications for such premises can raise significant concerns within the community and locality where the premises are or are sought to be located.
2. It is one of the Council's aims to strengthen community pride and cohesion in every neighbourhood whilst seeking to lower crime, the fear of crime and anti-social behaviour.
3. The Policy is intended as a guide to the Council in balancing the needs and interests of the business community, its patrons and employees, with those of residents and communities, when considering applications for Sex Establishment licences.
4. Its purpose is also to inform interested parties of the principles by which the Council will make decisions.

## **Background**

The Town and Country Planning Act 1947 formed the basis for much of the contemporary planning system. It was introduced to prevent ad hoc development and **assure appropriate use of land which is in the best interests of the community.**

Whilst the 1947 Act was superseded by the 1990 Act, the primary change was in the division of planning into forward planning and development control, setting out the future strategy of the local authority, and controlling current developments.

This principle was amended by the Planning and Compensation Act 1991, which introduced the plan-led system, meaning that development plans should be determined in line with planning applications.

Part 3 of the 1991 Amendment places all significant development decisions into public ownership which was deemed necessary to **prevent development taking place that was against the will or best interests of the community.**

Development Plans and the contained Policies are subject to periodic review which, under legislation, must always be preceded by community consultation.

One of the core tenets of the planning Acts is that there is a presumption in favour of planning applications unless the proposal fails in its compliance with published policies and proposals set out in a Local Development Plan.

A second tenet of the planning Acts is that whilst authority is granted to Local Planning Authorities to establish Local Development Plans containing planning policies and the setting up of Area Plans, community consultation must always precede their adoption and publication.

It is asserted that the same obligation to community consultation, must always follow the drawing up of draft proposals to amend or supercede regulations and controls intended to apply to existing or new developments, **where they might or will affect the established will or best interests of the community.**

Another core tenet of the planning Acts is that **where an application is highly controversial a key test in considering the decision is for the application to demonstrate a community need.**

**The objections which follow serve to show that there is no need within the Bolsover Local Authority area for a Sex Entertainment Venue.**

## **OBJECTIONS**

### **1. Sex Establishment**

Statements of Fact: -

Within the relevant Acts, the meaning of a Sex Establishment (sexual entertainment venue) is – “any premises at which relevant entertainment is provided before a live audience of such a nature that it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).”

And, premises “includes any vessel, vehicle or stall.”

Bolsover District does not currently have a Sexual Entertainment Venue (SEV) within its local authority area (BDC statement).

### **Response: -**

There is no need for a Sexual Entertainment Venue (SEV) to be introduced in Bolsover District local authority area, whether controlled by licence, planning regulation or not.

To grant an application to introduce such a venue would not accord with the Council’s stated high priority principle of aiming to strengthen community pride and cohesion in every neighbourhood.

For any organiser or entertainer wishing to operate a business providing sexually stimulating entertainment for financial gain, the Internet is a suitable and arguably a more suitable and convenient ‘venue’ in that it can reach a greater audience, indeed a world-wide audience.

The experience of fifteen months under the restrictions of Covid-19 regulations has unquestionably demonstrated the worth and convenience of Internet trading for both entertainment services and retail purchases.

For anyone in need of such entertainment, sexually stimulating experiences may be obtained via the Internet, where an abundance of such entertainment is already a cause for substantial domestic and international concern.

### **2. Sex Cinema**

Statements of Fact: -

Within the relevant Acts, meaning of Sex Cinema: - “In this Schedule, sex cinema means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which - are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage —

sexual activity or acts of force or restraint which are associated with sexual activity; or are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.”

Bolsover District does not currently have any sex cinemas in its local authority area (BDC statement).

**Response: -**

There is no need for a Sex Cinema within the Bolsover District local authority area, whether controlled by licence, planning regulation or not.

To grant an application to introduce such a venue would not accord with the Council's stated high priority principle of aiming to strengthen community pride and cohesion in every neighbourhood.

For any proprietor or organiser wishing to operate a business providing sexually stimulating visual entertainment for financial gain, the Internet is a suitable, and arguably a more suitable and convenient 'venue', in that it can reach a greater audience, indeed a world-wide audience.

The experience of fifteen months under the restrictions of Covid-19 regulations has unquestionably demonstrated the worth and convenience of Internet trading for both entertainment services and retail purchases.

For anyone in need of such visual entertainment, sexually stimulating visual experiences may be obtained via the Internet, where an abundance of such entertainment is already a cause for substantial domestic and international concern.

Further, neither residents or councillors should consider bringing any establishment into its administrative area that is focussed on or primarily intended to stimulate or encourage sexual activity or acts of force or restraint which are associated with sexual activity, whether controlled by licence or not.

### **3. Sex Shop and Sex Article**

Statements of Fact:

Within the relevant Acts, meaning of Sex Shop and Sex Article: - “In this Schedule “sex shop” means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.

In this Schedule “sex article” means anything made for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.”

## **Response: -**

There is no need for any such premises to be introduced within Bolsover District local authority area, whether controlled by licence, planning regulation or not.

To grant an application to introduce such a venue would not accord with the Council's stated high priority principle of aiming to strengthen community pride and cohesion in every neighbourhood.

For any proprietor or organiser wishing to operate a business comprising a sex shop selling sex articles for financial gain, an Internet web site is more cost effective than physical premises, and arguably a more suitable proposition in that it can reach a greater customer base, indeed a world-wide customer base. A web site does not require a physical building for the storage and selling of products and the associated overheads of the cost of premises rental, local business taxes and property maintenance.

For anyone in need of such sexually stimulating products, these may already be obtained via Internet web sites.

## **4. Expansion of Regulatory Authority**

Within the relevant Acts of Parliament there is provision for Local Authorities to set local standards and regulations.

This is viewed as a questionable authority, leaving regulation open to amendments that may be considered undesirable by residents - **affects the established will or best interests of the community.**

The introduction to this consultation (April 2021 issue 52 of BDC community newsletter InTouch) explains that BDC, as a licencing authority, currently has no regulatory control over the conditions under which such a business might be permitted to function.

But with the authority to set the details of local regulation, there is the danger of undesirable variations under this authority, by-passing local consultation.

There are examples within Local Authorities, of an historic extension of powers which have not been the subject of local consultation and which would almost certainly have been suppressed, if binding consultation had been carried out. This has been the case with RIPA.

**Regulation of Investigatory Powers Act 2000** - the law governing the use of covert techniques by public authorities.

This Act of Parliament was first introduced to local authority councillors and the committees on which they served at the turn of the 20th/21st century, as an authorisation to be used only for covert methods of investigation into acts of fraud (example: unlawful claims for social benefits and council tax evasion).

This authority is now considered to have been widely abused. It has been shown to have been employed covertly to investigate a family's residential qualification for children's school placements; to investigate the time and positioning of residential refuse bins and their contents; and more.

Locally decided amendments to the details of regulations used for the determination of decisions granting permission for the introduction of Sexual Entertainment Venues, without binding consultation, would be open to misuse in the eyes of residents living in the community, potentially becoming too lax.

## **Conclusions**

1. From a consideration of the foregoing, it will be self-evident to the local community that it is undesirable to have 'sexually stimulated people" emerging onto our streets at any time and at the same time as other, perhaps young and vulnerable people (members of their families), leaving restaurants, clubs, cinemas or dance venues.
2. It is hard to see how community pride will be strengthened because there is a Sex Entertainment Venue (SEV) in their neighbourhood - BDC high priority principle 2.
3. It is also hard to see how community cohesion between neighbourhoods will be strengthened following the introduction of a Sex Entertainment Venue - BDC high priority principle 2.
4. The stated purpose, to publish for the information of interested parties, the principles by which the Council will make decisions (about Sex Entertainment Venues) leads to an undesirable inference that the local authority will have a sympathetic stance towards a planning or licence application, if one were to be submitted - BDC high priority principle 4.

This inference is undesirably enhanced by the statement within the draft policy document referring to SEVs, "*The aim of the Authority in this Policy is .. to ensure that their location and internal layout are appropriate with a view to protecting children and vulnerable persons.*"

**Response received via e-mail on 13 May 2021:**

Dear Charmaine Terry,

Myself, and other members of \*\*\*\*\* here in Clowne are horrified at the prospect of the possibility of such places being allowed to operate within the Bolsover District. The licencing of such establishments goes against Christian teaching and against the morals of any decent person.

The licencing of this type of establishment will without a doubt bring "undesirable" people into Bolsover from out with our boundaries, which will in turn put extra pressures on our Police which we all know are already stretched.

I would urge you not to upset many thousands of the voting public for the perverted pleasure of a few individuals.