

Sex Establishment Policy

Consultation Responses (Ask Derbyshire)

North East Derbyshire District Council have carried out a consultation exercise into the proposal to adopt Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, as amended. As part of that consultation a questionnaire was developed and published on the Ask Derbyshire website, the result of which will be explored in this document. A copy of the full questionnaire summary can be seen attached as **Appendix 2**. In addition to those results a copy of any additional comments can be found attached as **Appendix 3**.

In total NEDDC received 39 responses to the Sex Establishment Policy consultation.

37 of those responses were received via a questionnaire which was published on Ask Derbyshire and the remaining two responses were received by e-mail. Of those respondents, 32 were local residents, one was a local place of worship and the remainder of which did not specify their interest in the consultation.

Of these responses, the majority of the respondents agreed that the policy was clearly written and easy to understand; and fair to both residents and licensed premises. Furthermore, the majority of respondents felt that the following aspects of the policy were adequate, appropriate and clear:

- mandatory and discretionary grounds for refusal
- applicant suitability criteria
- application process
- enforcement information
- definitions

As part of the questionnaire published on Ask Derbyshire respondents were asked to comment on whether different localities within the district were suitable for licensed sex establishments. The responses revealed that the majority of respondents felt that sex establishments were inappropriate in all of the areas listed in the questionnaire. The only exception to this was the response in relation to sex shops located within the vicinity of shopping areas. The response revealed that the opinion in relation to sex shops located in shopping areas was largely split. As a result of the responses to the questionnaire, sections 2.8 to 2.24 of the draft policy have been updated accordingly.

As part of the questionnaire published on Ask Derbyshire respondents were asked to give feedback on the standard conditions for sex establishments. The majority of respondents agreed that the standard conditions were useful but were unsure about whether the conditions should be amended, deleted or any additional conditions be added. In addition to these responses the concerns listed in table 1 below were raised:

Table 1

Issue Raised	Number of Respondents who raised the issue	Officer comments
That conditions should not be attached to the licence.	2	Local Government (Miscellaneous Provisions) Act 1982 gives local authorities the power to prescribe standard conditions applicable to all premises licensed by that authority. Attaching conditions to a licence promotes consistency in standards and enables efficient enforcement where premises are failing to meet those standards.
Moral Grounds: That morals should be a consideration when determining applications	1	The policy has been drafted in accordance with the Home Office Guidance on Sexual Entertainment Venues and in conjunction with the relevant judgement outlined in R v Newcastle upon Tyne City Council ex parte The Christian Institute [2001] which specifies that a licence cannot be refused purely on moral grounds.
Community services: Sufficient funding/provision in surrounding area for safety, sexual health and youth services	1	It is outside the scope of this policy and the functions of the licensing section to make provision for additional community services.
Safe and suitable customer parking should be provided where the premises allow	1	Members may wish to consider including an additional condition in relation to parking, however, premises types vary and it is recommended that parking issues are, for the main part, dealt with at the planning stage of a premises establishment.

As part of the consultation respondents were asked if they had any further comments to add to their response. Table 2 below outlines the issues raised by respondents together with officer responses to those comments.

Issue Raised	Number of Respondents who raised the issue	Officer comments

Moral Grounds: That morals should be a consideration when determining applications	2	The policy has been drafted in accordance with the Home Office Guidance on Sexual Entertainment Venues and in conjunction with the relevant judgement outlined in R v Newcastle upon Tyne City Council ex parte The Christian Institute [2001] which specifies that a licence cannot be refused purely on moral grounds.
That the 21 day consultation period is not long enough	1	The 21 day consultation period specified in the policy is set in accordance with Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
A condition should be added to record the details of every person entering the premises.	1	A licensing authority must only add conditions to a licence which are seen to be reasonable and proportionate. Justification for such a condition would be needed.
That areas for exclusion should be identified.	1	The areas where sex establishments are to be excluded have been included as a result of this consultation.
Premises should be monitored and enforcement action taken	1	Whilst the authority is not in a position to comment on increased policing; the authority does have robust reporting mechanisms and enforcement policies in place for members of the public to report incidents and concerns over premises.
That the legislation should not be adopted and the licensing and promotion of such premises is not appropriate.	5	The Council's powers to regulate sex establishments are currently limited to those relating only to planning and alcohol licence regulation. The adoption of this legislation and the draft policy would increase the authority's powers to regulate such premises. The aim of this adoption and policy is not to promote the establishment of such premises, but to enable the authority to regulate such premises should a premises appear within the district.
That the adoption of this policy and legislation isn't appropriate as it limits businesses and is	2	The authority is not aware of any premises within the district which would be subject to a licence. The introduction of this policy would therefore not affect any currently

<p>geared towards refusal of applications.</p>		<p>established businesses that the authority are aware of. The majority of respondents agreed that the policy was fair to both residents and licensed premises. The policy has been drafted to balance the needs and interests of businesses with those of residents and local communities.</p>
<p>That the questionnaire was written to show sex establishments as unwanted.</p>	<p>1</p>	<p>The questionnaire published on Ask Derbyshire gave limited but multiple options for responses to the questions. This was to enable the information to be easily quantified. Respondents had the opportunity to provide further information at the end of the questionnaire if they wished to do so.</p>
<p>That industrial areas may be suitable for such premises.</p>	<p>1</p>	<p>Applicants are not barred from applying to the Council for a licence. Sections 2.11 and 2.17 of the policy have been amended to take account of this comment. The policy now stipulates that the Council has considered its Wards and that as a result of the responses to the consultation have accepted that there 'may be no locality' appropriate for such a venue rather than 'is no locality'. However, it does also stipulate that the Council will still comply with its obligations to consider all applications.</p>