

Minutes of the Licensing Sub-Committee

3 August 2023

-: Present :-

Councillors Joyce, Tolchard and Virdee

3. Election of Chairman/woman

Councillor Joyce was elected as Chairman for the meeting.

4. Minutes

The Minutes of the meeting of the Sub-Committee held on 6 July 2023 were confirmed as a correct record and signed by the Chairman.

5. Determination of continuance of Personal Licence (PA0129), following notification of conviction of a relevant offence

The Licensing Sub-Committee considered a report on the determination of the continuance of Personal Licence (PA0129) held by Ms K Poulson, following notification of a conviction of a relevant offence under Schedule 4 of the Licensing Act 2003. Members noted that Ms Poulson had failed to inform the Licensing Authority of receipt of her conviction for a relevant offence, as required by her as a Personal Licence Holder. South Devon Magistrates Court notified the Licensing Authority of the offence on 10 May 2023.

Members noted that the conviction related to an offence committed under Section 5A(1)(a) and (2) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 (driving etc a vehicle with drug concentration above prescribed limit). Ms Poulson was ordered to pay a fine of £120, costs of £85, a victim surcharge of £80 and was disqualified from driving for an obligatory period of 12 months (the conviction would be spent on 9 May 2024).

The Licensing Authority had written to Ms Poulson on 14 June 2023, at the address provided by her on her Personal Licence, to notify her that the Licensing Authority was considering suspending (for a maximum of six months) or revoking her licence and inviting her to make representations within 28 days of the date of the notice. Ms Poulson responded to this email and telephoned the Licensing Officer to discuss the matter. Ms Poulson was advised to make a written representation within 28 days from the date of the letter, i.e. 12 July 2023, but did not do so.

The Licensing Authority also wrote to Ms Poulson on 17 July 2023 advising her of the date of the hearing and inviting her to attend the hearing and submit further

information. This letter was sent to the email address and hand delivered to an address provided on her Personal Licence. No response was received to these letters and no written representation received until Ms Poulson sent an email on the evening of 2 August 2023 to the Licensing Officer stating that she had missed the previous email. Ms Poulson advised in the email that she would attend the meeting of the Licensing Sub-Committee on 3 August 2023. Also within the email, Ms Poulson provided a written statement and a character witness statement from a previous employer.

Members resolved to consider the continuance of a Personal Licence in the absence of Ms Poulson, as she had failed to respond to any communications from the Licensing Authority within the required timeframe and did not attend the meeting, having been satisfied in the circumstances, that it was in the public interest to determine this matter.

Decision:

That Ms Kate Poulson Personal Licence be revoked, in accordance with 132A of the Licensing Act 2003 and that this revocation shall have immediate effect.

Reasons for Decision:

Members resolved to revoke Ms Poulson's Personal Licence having voted unanimously that in the absence of evidence to the contrary, they could not be satisfied that she was a suitable person to hold a Personal Licence.

In coming to their decision, in the absence of Ms Poulson who failed to attend the hearing despite confirming her intention to do so, Members noted that Ms Poulson had additionally failed to respond in a timely manner, or at all, to the written communications sent by the Licensing Authority or to provide any written Representation within the 28 day timescale, only providing this late at 17.04 hours on 2 August 2023, the evening prior to the hearing.

Members were satisfied that all reasonable attempts were made to inform Ms Poulson of the hearing arrangements, including the personal service of the hearing notice at her last known address on 20 July 2023 and that she was aware of the hearing, having confirmed her intention to attend. Therefore, Members determined that it was in the public interest to hear the matter in her absence, as no further information had been received, as to why she was not in attendance.

Whilst Members were sympathetic to those circumstances as described by Ms Poulson in her written Representation, Members also had regard to the seriousness of the offence, to which Ms Poulson had pleaded guilty, and how she had failed to notify the Licensing Authority of her conviction as is her duty to do so. Members felt that Ms Poulson's actions were not those of a responsible Personal Licence holder. Further they could not be satisfied that she was a suitable person to promote the Licensing Objectives in respect of the sale of alcohol.

Whilst Ms Poulson had provided a reference in a separate email to her late Representation, this was received from Ms Poulson's own email address, unsigned, and could not be verified.

Members noted that Ms Poulson had the right to appeal their decision at the Magistrates' Court.

Chairman/woman
