

Brixham Town Council

Report No:	27-2020		
Report Type:	Public		
Title:	Shoals Café Licence		
To:	Full Council	Date:	03.09.20
Contact Officer:	Town Clerk	Tracy Hallett	
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Purpose of Report

To consider a request from the tenants at Shoalstone Pool to vary the lease to allow off sales of alcohol.

Background

The tenants of Shoals Café applied to Torbay Council Licencing to vary their current licence to allow off sales of alcohol.

Objection

Shoalstone Pool CIC is a company wholly owned by Brixham Town Council which was created to manage the complex on behalf of the Town Council.

Shoalstone Pool CIC objected to the licence application that was submitted to Torbay Council. Their statement is below:

“Shoalstone Pool CIC, as the management company responsible for operating the swimming pool site that includes Shoals Cafe on the Lido, would like to formally object to the proposed variation to their alcohol license (PL1080, Shoals Café on the Lido, Berry Head Road, Brixham).

We oppose this application to change the license to allow sales off the premises on the grounds of the foreseen increase in public nuisance, crime and disorder, and danger to public safety.

Prevention of public nuisance and prevention of crime and disorder: Shoalstone Pool and the surrounding site itself have been often subjected to vandalism and anti-social behaviour. We have regularly been in contact with the police to seek help to disperse groups causing a public nuisance on pool side and within the car park area during the day and in the evenings, and to report vandalism and break-ins. On numerous occasions this has been related to misuse of alcohol. All of these instances have been logged with the police.

Public safety: The risk to the public of the drinking of alcohol and swimming is well documented, as can be evidenced by the recent high-profile RNLI campaign that seeks to inform the public, "...remember alcohol and water don't mix". We also have to contend with the physical effects too. To protect public safety, all incidents of broken bottles and glass near the pool require the pool itself to be closed, drained completely and any glass removed from the bottom of the tank. This is not an easy task, and we need to wait for the correct tide levels to refill the pool, which thus represents loss of income and loss of an amenity to the community.

We have worked hard to improve conditions and behaviour on site, and the request for a change of license goes against everything we have been trying to achieve. We have liaised with our local neighbourhood policing team and taken on board various suggested strategies: looking to get the youth groups involved

with the pool, providing our lifeguards with further training on how to maintain order and deal with difficult individuals, and making the immediate pool deck and surrounds an alcohol-free zone when lifeguards are on duty. The police did suggest making the whole site an alcohol-free area but on balance we felt it would be difficult to enforce.

We are aware that we cannot control what happens outside of the pool opening times, but at SPCIC we give a consistent message to all users of the site by controlling alcohol use.

Shoals Café currently only have an on-the-premises alcohol license, and intentionally the Shoals Café Lease between the tenants Sean and Sarah Perkes and BTC states that they can only sell alcohol on the premises:

PERMITTED USE: a Café for the sale by retail of food and alcoholic and non-alcoholic drinks for consumption ON THE PREMISES.

The proposed change of licence we believe will offer encouragement to the drinking of alcohol away from the defined trading areas of the café. The greater consumption of alcohol around the site itself is likely to make the effective running of the pool increasingly difficult and exacerbate, as detailed above, an already challenging situation.”

Brixham Town Council response

Brixham Town Council considered the licence application and did not object to the application. However, the tenants were contacted to advise that they did not follow the terms of the lease ie they submitted an application without consulting their landlords (BTC). They were also advised that the terms of the lease overrides the terms of their licence with Torbay Council.

Torbay Council Licensing Decision

Thee application was approved with the following condition following a hearing by the Licensing Authority:

Public safety: Prominent signs shall be displayed at the premises informing customers that off sales shall not be consumed around the pool side area.

Request for Variation to Terms of Lease

The tenants of Shoals Café have submitted the following request

“Please accept this email as a formal request for a minor variation to the terms of the lease held between Brixham Town Council and Shoals Café.

We would like to request the lease to allow off sales of alcohol to be permitted as granted by Torbay Licensing Committee on 6th August 2020.

This would include the condition that off sales will not be permitted in or around the pool area and clear signs displayed.

PREVENTION OF PUBLIC NUISANCE AND PREVENTION OF CRIME AND DISORDER

I have liaised with the local neighbourhood policing team and Torbay night-time economy unit regarding antisocial behaviour in the area. It has been confirmed that reported incidents have dropped significantly since we opened the restaurant on the 25th July 2015. We strongly believe this is due to our CCTV systems, lighting, staff vigilance and our knowledge and communication with youths and their families in the local area. I can confirm that there have been no reports to Police regarding antisocial behaviour linked to restaurant during our five years of trading.

PUBLIC SAFETY

In my application I clearly stated that no glasses or bottles will be taken from the premises. All off sales will be poured into environmentally friendly disposable cups by staff and handed to the customer. Extra bins will be provided and regular patrols will be carried out by staff to ensure any litter is disposed of. We will continue with responsible pricing and responsible drinking policies. Alcohol has always been permitted in the area. The approximate age of our customers range from 30 – 75 years of age. We have never had an issue with youths trying to purchase alcohol. One of the reasons for this is that we charge restaurant not supermarket prices. We do not believe off sales of alcohol would make a great deal of difference to the amount of people choosing to drink in the area.

As a result of COVID 19 many people do not feel comfortable to sit inside the restaurant or on the terrace. We completely respect this and encourage social distancing. Off sales would allow us to support the choices of people who wish to take food and a drink away from busy areas allowing them to continue with some kind of normality.”

Shoalstone Pool CIC

The Directors of Shoalstone Pool CIC are aware that Brixham Town Council is considering a request to vary the café lease and have emailed the following statement:

“We have discussed this again since that meeting, and we still do not support the full off-premises sales of alcohol. We have no problem however with the tenant selling alcohol with meals, and these meals may be to tables located on the green if we could come to an arrangement on this. The best way would have been for them to come to us first, as the lease required them to do, so we could have discussed what they wanted, and look to put something in place that would work for both of us. And we did offer for them to have tables on the green within a roped off area prior to the license application, as an extension of their premises, as the current covid-19 regs allow us to do.

It may be that now they are only looking to have sales to the green but once they have permission for full takeaway sales, there will be no going back if in future they look to expand this, as I can see them doing. And a sign up will do little to deter people once the pool is closed for an evening.

For the green itself, our very first thoughts on this area are that we would like to create an open level space for events or a site to erect a marquee, with further picnic tables/barbeque standings. And then further down the line perhaps a small play area or training equipment like they have at St Marys. Obviously we are some way off this, but that gives you some idea of what we are thinking. All of these ideas would be of benefit to the café.”

Sea Water Pools

Below are the results following a small research carried out to compare Shoalstone lido with other lidos. However, it should be noted that there are beach cafés that do have a

licence to sell alcohol on and off the premises. Examples of these are Boathouse, Preston beach, Broadsands Bistro, Broadsands beach and Breakwater Bistro, Breachwater beach.

Name of pool	Location	Café/restaurant on site	Lifeguards
Summerleaze	Bude, Cornwall	N/A	N
Dancing Ledge	Dorset	N/A	N
The Tunnels	Ilfracombe, Devon	Wedding venue	N
Jubilee Pool	Penzance, Cornwall	Café alcohol available 10am – 3pm	Y
Waypole Bay	Margate, Kent	N/A	N
The Trinkie	Scotland	N/A	N
Tinside	Plymouth, Devon	Café	Y
The Rock Pool	Newcastle, N Ireland	Café	Y

RNLI safety information from their website states

Around 1 in 8 coastal deaths in the UK involve alcohol, and it is a contributing factor in many more water-related incidents. Minimise the risk, if you're going to drink, save it for after you've been in the water. Alcohol can seriously impair your judgement, reactions and ability to swim. If you're out drinking near the sea or a river, look out for your mates. All too often we hear of people who drown despite never intending to enter the water. Slips, trips and falls are common and many alcohol-related accidents begin near, rather than in the water.

Shoalstone Pool CIC where asked the following questions

Q. SPCIC have a no alcohol policy on poolside. How are they managing it and who is responsible for enforcing it?

A. *The lifeguards manage this when we are open...but as no alcohol sales on site at the moment it is not a major issue. We are concerned that it will become one.*

Q. What checks are currently undertaken prior to opening the pool each day (in a normal seasonal year) in respect of glass or rubbish in the pool and on pool side?

A. *Checks are undertaken by the caretaker each morning, when open, for the green and walkways around the site, including the pool deck. He tends to look for any evidence of possible broken glass, i.e. bottle tops etc. The lifeguards will then keep an eye on the pool deck throughout the day.*

Q. Have you contact the insurance company? Would they expect additional measures to be put in place if Off Sales were approved by BTC. ie pool being sectioned off outside of Lifeguard times?

A. The insurance company has been contacted and at the time of issuing the report, a response was still outstanding.

Shoalstone Pool CIC have confirmed that the fencing around the pool has been erected by the instructions of the insurance company. This is because of COVID-19 and will need to remain erected whilst they are closed, which will include the winter period.

Motion Proposed by Cllr Stockman and seconded by Cllr Morey:

“That Brixham Town Council offers Shoals Cafe on the Lido a variation to the lease agreement to reflect the decision taken by the Torbay Council Licensing Sub Committee Minute 36 on 6th August 2020.”