

CANNOCK CHASE COUNCIL

LICENSING SUB-COMMITTEE

18 NOVEMBER 2013

REPORT OF HEAD OF ENVIRONMENTAL HEALTH

LICENSING ACT 2003

APPLICATION FOR A REVIEW OF A PREMISES LICENCE

BOJOLLYS, 13 ALBION STREET, RUGELEY, STAFFS, WS15 2BY

1. Reason for Hearing

- 1.1 Staffordshire Police have made application to the licensing authority for a review of the Bojollys Premises Licence on the basis that offences have been committed under the Licensing Act 2003 and that the licence holder needs to do more in relation to the promotion of the licensing objectives in the areas of Prevention of Crime and Disorder and the Protection of Children from Harm. A copy of the application for review of the premises licence is given as Annex 1 to this report. A confidential annex containing witness statements and documents containing personal details is given as Annex 2 to this report.

2.

Name and Address of Premises.	Bojollys, 13 Albion Street, Rugeley, Staffs, WS15 2BY
Unique Premises Licence Reference Number	CCDC/PREM/05/022 The Premises Licence is provided within Annex 2 to this report.
Applicant for Review of Premises Licence	Sgt Tracey Carsley, on behalf of The Chief Constable, Staffordshire Police, Southern Licensing Unit, Burton Police Station, Horninglow Street, Burton-on- Trent, Staffs, DE14 1PA
Date of Application for Review	27 September 2013.

Reason for Review of Premises Licence	<p>The Application for review of the Premises Licence has been made on the basis that the licensing objectives of:</p> <ul style="list-style-type: none"> • The Prevention of Crime & Disorder • The Protection of Children from Harm <p>are being compromised.</p>
Name and Address of Premises Licence Holder	<p>Mr Graham Chesters, 1-2 Ladyhill Terrace, Rugeley, Staffs, WS15 2BY</p>
Designated Premises Supervisor (DPS) at the time of the application.	<p>Mr Lee Rogers</p>
Permitted Licensable Activities	<p>The premises currently has the benefit of a licence granted on the 1 August 2005 under the Licensing Act 2003.</p> <p>The Premises Licence currently permits:</p> <ol style="list-style-type: none"> 1. Sale by Retail of Alcohol 2. Provision of Regulated Entertainment
Current Licensing Hours:	<p><u>Sale by Retail of Alcohol (on and off sales)</u></p> <p>Monday to Wednesday 11.00 to 24.00hrs Thursday 11.00 to 01.00 Friday & Saturday: 11.00 to 01.30hrs Sunday 12.00 to 23.30hrs</p> <p>Non Standard Timings:</p> <p>Christmas Eve, Boxing Day and New Year's Eve 11.00 to 01.30hrs.</p> <p><u>Provision of Regulated Entertainment (indoors only)</u></p> <p>Live Music</p> <p>Monday to Wednesday: 20.00 to 23.30hrs. Thursday to Saturday: 21.00 to 01.00hrs Sunday 20.00 to 23.00hrs</p>

<p>Current Licensing Hours (cont.)</p>	<p>Non Standard Timings:</p> <p>Christmas Eve, Boxing Day and New Year's Eve 11.00 to 01.30hrs</p> <p>Recorded Music (as incidental music only)</p> <p>Monday to Wednesday 11.00 to 00.30hrs Thursday 11.00 to 01.30 Friday & Saturday: 11.00 to 21.00hrs Sunday 12.00 to 20.00hrs</p> <p>Non Standard Timings:</p> <p>Christmas Eve, Boxing Day and New Year's Eve 11.00 to 02.00hrs</p> <p>Recorded Music (as non incidental music)</p> <p>Friday & Saturday: 21.00 to 01.30hrs Sunday 20.00 to 23.00hrs</p> <p>Non Standard Timings:</p> <p>Christmas Eve, Boxing Day and New Year's Eve 21.00 to 01.00hrs</p>
<p>Opening Hours of Premises</p>	<p>Monday to Wednesday 11.00 to 00.30hrs Thursday 11.00 to 01.30 Friday & Saturday: 11.00 to 02.00hrs Sunday 12.00 to 24.00hrs</p> <p>Non Standard Timings:</p> <p>Christmas Eve, Boxing Day and New Year's Eve 11.00 to 02.00hrs</p> <p>A map of the premises is given as Annex 3 to this report.</p>
<p>Other Responsible Authority representation in respect of the Application for Review.</p>	<p>There have been no relevant representations received from any of Cannock Chase Council's Responsible Authorities in connection with this application.</p>

Valid representations from Other Persons	The Licensing Unit received no relevant representations from any other persons.
Matters of note	<p>The Premises Licence for Bojollys was issued by the Licensing Authority on 1 August 2005 and has run continuously ever since.</p> <p>On Sunday 25 August 2013, Bojollys was subject to a compliance testing operation where two underage females were sent into the premises in order that they could attempt to purchase alcohol from the premises.</p> <p>The two underage volunteers were subsequently sold alcoholic drinks. The seller of the alcohol was formally interviewed by the police and a Fixed Penalty Notice was served upon them.</p> <p>A chronology of the events of 25 August 2013 is given on pages 5 of the Application for Review. This page is reproduced as enclosure 4.12 to this report.</p> <p>As result of their concerns, Staffordshire Police believe that a review of the Premises Licence is necessary in these circumstances.</p> <p>In view of the underage sale, Staffordshire Police request that several conditions be added to the Premises Licence. They believe that the said conditions need to be added to the Premises Licence in order to ensure that the licensing objectives are upheld.</p> <p>The Police submission includes the following statement: "We also believe that Mr Chesters, the premise licence holder, should be given clear warning that should a further appearance at a review hearing be requested there would be a presumption of revocation of the premise licence as Staffordshire Police take the selling of alcohol to under aged children extremely serious"</p> <p>A full list of the said conditions mentioned above is given on pages 5 & 6 of the Police Application for Review. They are reproduced as enclosures 4.12 & 4.13 to this report.</p>
Other matters of note.	On 8 October 2013, the Council's Licensing Unit received an application from Mr Chesters to minor vary the Premises Licence in order to include five "Challenge 25" conditions upon it. These were the same "Challenge 25" conditions which Staffordshire Police have asked the Sub Committee to impose upon the Premises Licence.

	<p>This Minor Variation of the Premises Licence was granted on the 29 October 2013 and the said five "Challenge 25" conditions have now been added to the Premises Licence.</p> <p>On 14 October 2013 the Licensing Unit received a letter from Staffordshire Police which advised that they had been in successful negotiations with the Licence Holder and wished to withdraw their application for review.</p> <p>Although negotiations between Staffordshire Police and the Licence Holder have been successful, there is still a requirement within the Licensing Act for the Licensing Sub Committee to hold a Hearing.</p>
--	---

3. Human Rights Act 1998 Implications

- 3.1 Article 6 of the Act provides that where a person's civil rights and obligations are being determined, s/he is entitled to a "fair trial". The Council complies with Article 6 in that it gives the person the opportunity to state their case, will make a decision within a reasonable period of time and will give reasons for its decision.
- 3.2 The Article also provides for the issue to be determined by an independent tribunal. The right of appeal to the Court against the Council's decision fulfils this.
- 3.3 The Council observes the rules of natural justice and its procedures are consistent with Article 6 of the Human Rights Act 1998.
- 3.4 Article 14 provides a prohibition against discrimination. This does not stand alone but answers that where any other rights are affected, they must not be dealt with in a discretionary way.

4. Legal Implications

- 4.1 Regulations require that the application for review of the Premises Licence is heard by Members of the Licensing Sub Committee within 20 working days beginning with the day after the close of the statutory 28 day period within which representations can be made. This Hearing date satisfies this requirement.
- 4.2 The Licensing Sub Committee is permitted under section 52(4) of the Licensing Act 2003 ('the Act') having had regard to the representations, to take such steps as it considers appropriate for the promotion of the licensing objectives namely;
 - a) to modify the conditions of the licence**
 - b) to exclude a licensable activity from the scope of the premises**
 - c) to remove the Designated Premises Supervisor**
 - d) to suspend the licence for a period not exceeding 3 months**
 - e) to revoke the licence.**

- 4.3 The Licensing Sub-Committee can also resolve to take no action, issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.
- 4.4 Any such steps must be taken having regard to the statutory guidance issued by the Secretary of State and the Council's Licensing Policy.
- 4.5 Any remedial action taken should be directed at the cause of the concerns which the representations identify. The remedial action should always be directed at these causes and should be no more than an appropriate and proportionate response.
- 4.6 Where steps are taken in respect of a) or b) the Sub Committee may provide that the modification or exclusion is to have effect for only such a period (not exceeding 3 months) as it may specify. If the Sub Committee determines this course of action, it is important that any detrimental financial impact that may result from the decision is appropriate and proportionate for the promotion of the licensing objectives.
- 4.7 Any determination of the application for the review of a premises licence shall not have effect-
- a) Until the end of the period given for appealing against the decision.
 - b) If the decision is appealed against, until the appeal is disposed of.
- 4.8 The applicant, the licence holder and other persons who made relevant representations in relation to the application have a right of appeal to the Magistrates' Court should they disagree with the Licensing Sub Committee's decision. The appeal must be made within 21 days of the Committee's decision being notified (in writing) to the appellant.

5. Financial Implications

- 5.1 No fees are payable upon application for a review of a premises licence. However, both the applicant and licence holder have the right of appeal to the Magistrates' Court against the decision. The Court is however, less likely to award costs against the Council if it is satisfied that the Council had acted honestly, reasonably and properly and on grounds which appeared to be sound.

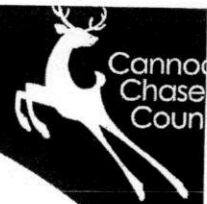
Should the licence be revoked the annual fee of £180 due in August each year would not be payable to the Council.

6.

Annexes Attached	Annex 1	Application for review of the Premises Licence by Staffordshire Police.
	Annex 2	Confidential documents and witness statements contained within the application for review of the premises licence.
	Annex 3	Map of the Premises Location

7.

<p>Determination Required</p>	<p>Members are asked to determine what action may be required in order to ensure that the licensing objectives are met at Bojollys, 13 Albion Street, Rugeley, Staffs, WS15 2BY, having due regard to the requirements of legislation, the 4 Licensing Objectives, the Council's Licensing Policy and Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The 4 licensing objectives are:</p> <ul style="list-style-type: none">• the Prevention of Crime & Disorder• Public Safety• the Prevention of Public Nuisance• the Protection of Children from Harm
-------------------------------	--



Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Sgt 588 Carsley

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description BOJOLLYS 13 ALBION STREET RUGELEY	
Post town STAFFORDSHIRE	Post code (if known) WS15 2BY

Name of premises licence holder or club holding club premises certificate (if known) GRAHAM CHESTERS

Number of premises licence or club premises certificate (if known) CCDC/PREM/05/022
--

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

Please tick ✓ yes

I am 18 years old or over

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Sgt 588 Carsley Southern Licensing Unit Burton Police Station Horninglow Street Burton on Trent Staffs DE14 1PA
Telephone number (if any) 01785 234722
E-mail address (optional) tracey.carsley@staffordshire.pnn.police.uk

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

- ✓

 ✓

Please state the ground(s) for review (please read guidance note 2)

This premise has been subject to a compliance testing operation on Sunday the 25th August 2013 involving multi agency authorities whereby two underage volunteers, two females who were aged 15 and 16 years were sent into a premise to see if they could purchase alcohol.

On the night in question the volunteers entered the premise and alcoholic drinks were sold by a member of staff to the 15yrs old child volunteer, the SELLER, at no point has asked for any form of identification or asked the children for their age.

The SELLER was formally interviewed by Police on the night, admitted the sale and was issued with a Fixed Penalty Notice for this offence.

The Premise Licence Holder is Graham CHESTERS and the Designated Premise Supervisor is Mr Lee ROGERS.

In light of this matter, Mr CHESTERS needs to do more in relation to the promotion of the Licensing objectives in the areas of Prevention of Crime and Disorder and the Protection of Children from Harm and therefore believe a review of the premise licence is necessary in these circumstances.

Please provide as much information as possible to support the application (please read guidance note 3)

Supporting documentation is provided in appendices to this application as follows which the Police will seek to use part of their evidence in relation to this review application:

- Appendix 1: Premise licence
- Appendix 2: Record of interview
- Appendix 3: Officer statements
- Appendix 4: Incident list
- Appendix 5: Police system printouts
- Appendix 6: Officer statement and copy licensing check

The details of the underage sale at the venue are that on Sunday the 25th August 2013, Staffordshire Police Licensing Unit carried out compliance testing in relation to the underage sale of alcohol in the Hednesford and Rugeley areas.

This involved the use of two volunteers, a 15yr old female by the name of Charlotte and another female named Robyn aged 16yrs. The volunteers were chosen because in the Police's view they had a typical appearance of children of their age.

On Sunday the 25th August 2013 at 20:05hrs Robyn and Charlotte entered the venue together and approached the bar.

At the bar, Charlotte, the 15 yr old asked the SELLER, a female member of staff for two bottles of blue WKD. Charlotte was at no point asked her age or for any identification prior to the sale taking place. Charlotte was served with the alcoholic drink by the SELLER which was then seized by SC RUSTON .

After the sale the SELLER was formally interviewed under caution by PC GENT and admitted the sale. During the interview she explained that she had worked at the venue for 11yrs and had last received training 18 months ago by the Manager.

This sale is a criminal offence under Section 136 of the Licensing act 2003 which relates to a sale of alcohol to a person (child) under 18 yrs, therefore on conclusion of the interview the SELLER was given a fixed penalty notice for this offence.

In relation to the information included in this review document Staffordshire request that the Licensing sub committee add the following conditions on the premise licence:

- Challenge 25 will be operated at the venue whereby all persons under the age of 25 yrs and purchasing or attempting to purchase alcohol will be asked to provide identification to prove they are over the age of 18 years

- The only acceptable forms of identification allowed will be a valid passport, valid photo ID driving licence or valid proof of age scheme card with the PASS approved hologram.
- Challenge 25 signage to be displayed at the entrance of the premise and at the cash till payment area in sight of customers and staff.
- All staff working at the premises involved in the sale of age restricted products including the sale and supply of alcohol will receive initial and subsequent 3 monthly refresher training on the law in relation to sales of alcohol. This will be recorded in a staff training register and will include a written test of knowledge, signed and dated by both the member of staff and the designated premise supervisor. These records must be made available to police and officers of responsible authority upon request. Records to be retained on the premise.
- A refusals register is to be used to record all incidents when a sale is refused. This register will contain the member of staff refusing the sale together with dates and times of any sales refused. The DPS will check the register on a weekly basis and sign as such.

We believe that these conditions need to be attached to the Premise Licence in order to ensure that the licensing objectives are upheld.

We also believe that Mr CHESTERS, the premise licence holder, should be given clear warning that should a further appearance at a review hearing be requested there would be a presumption of revocation of the premise licence as Staffordshire Police take the selling of alcohol to under aged children extremely serious.

Should the conditions be attached fully and the warning given as outlined above, Staffordshire Police believe that the licensing objectives relative to the Prevention of Crime and Disorder and the Protection of Children from Harm are likely to be met.

Have you made an application for review relating to the premises before

Please tick ✓ yes

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓

yes

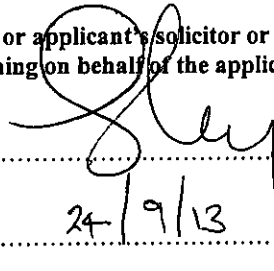
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature



Date

24/9/13

Capacity

LICENSING SERGEANT

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

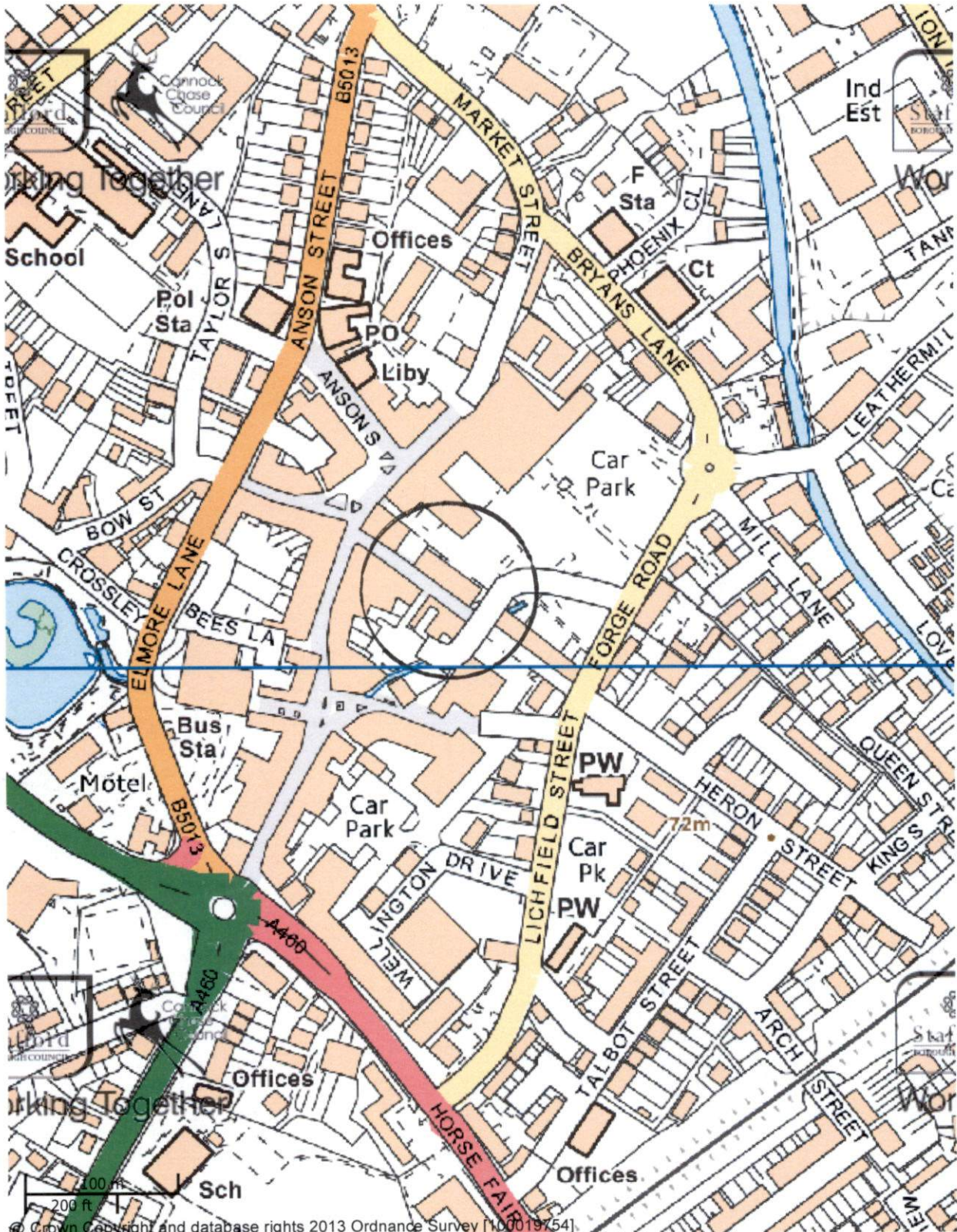
Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.



Bojollys

Working Together



Map Legend