Planning Inspectorate

Appeal Decision

Site visit made on 10 November 2026

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2026

Appeal Ref: APP/B2355/C/25/3375745
12 Burnley Road, Bacup, Lancashire, OL13 8EU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Mohammed Qadeer against an enforcement notice issued by Rossendale Borough Council.
- The notice was issued on 14 October 2025.
- The breach of planning control as alleged in the notice is 'Operational development without the benefit of planning permission, comprising of the erection of external shutters and a shutter box with a large LED sign on the front elevation of the building'.
  The requirements of the notice are to: Permanently remove the shutter and shutter box, signage and all of their component parts from the building as shown in the photographs enclosed within; and, repair any damage to the stone work to a reasonable standard caused by the installation or removal of the shutters, shutter box and signage.
- The period for compliance with the requirements is: six months.
- The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).

Decision

1. It is directed that the enforcement notice (the Notice) is corrected by:

   - the deletion of the words 'as shown in the photographs enclosed within' in section 5 of the Notice; and,

   - the substitution of the plan annexed to this decision for the plan attached to the enforcement notice.

2. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld.

The Notice

3. Inspectors have a duty to try to get notices in order. If I consider the Notice is defective, I have broad powers under the provisions of s176(1)(a) of the Town and Country Planning Act 1990 as amended (the Act) to correct any defect, error or misdescription in the enforcement notice, or to vary the terms of the enforcement notice. I can only do so, however, where I am satisfied that this will not cause injustice to either the appellants or the Council. If the Notice cannot be corrected, I must quash the Notice.

4. The address appearing in the banner heading above is taken from the Notice. The title of the plan attached to the Notice suggests that the relevant land may include parts of both 10 and 12 Burnley Road and the plan includes the whole of the combined footprint of the consecutive buildings.

5. On site, the ground floor retail unit has a single doorway with display windows and retail space straddling what was probably an original party wall. A separate access

to no.10, which serves the upper floors, lies at the south-eastern limit of the site's frontage. The latter does not form part of the retail unit and should therefore be excluded.

6. Correction of the plan to relate to only the retail unit at 12 Burnley Road would require a reduction in the site area subject of the Notice. However, as this could be done without omission of the relevant land on which the operational development has occurred, that change can be made without injustice to either of the main parties.

7. Section 173(3) requires that an enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the purposes set out in s173(4). The case of *Miller-Mead*[1] held that the test is namely whether the enforcement notice tells the recipient fairly what they have done wrong and, with reasonable certainty, what steps had to be taken to remedy the alleged breaches.

8. While the description of the breach is not contested, the first requirement in the Notice refers to photographs identifying the development/building. From the copies of the Notice provided by the main parties, it appears that no photographs were enclosed within it. This is a clear omission from the Notice.

9. However, in *Oates*[2] the High Court helpfully set out relevant principles in respect of the matter of potential nullity of an enforcement notice. Some degree of uncertainty or other defect in the relevant section of the notice does not mean there is non-compliance with section 173(1). Whether a defect renders the notice null must be viewed in the context of: the importance or otherwise of that particular part of the enforcement notice; whether the defect is bound up with the remainder of that section; and, whether the enforcement notice would be valid in the absence of that defect.

10. It is open to me to conclude that whilst part of the relevant section of the notice is uncertain, the notice as a whole complies with the statutory requirements and the offending part can be deleted without rendering the remainder of the notice null. Finally, *Oates* established that the Inspector should approach the exercise in a way which is not unduly technical or formalistic.

11. While I have little doubt that the attachment of photographs to identify the relevant development and part of the building would assist in interpretation of the Notice's requirements, deletion of reference to the images would not cause the appellant, or any other recipient, difficulty. It is clear from the description what the alleged breach consists of and where it is located. By reference to the Rossendale Shop Front Design Guide, section 4 of the Notice clarifies that the Council's concerns relate to the shop front, and the shutter/box/signage are the only ones on the front elevation of the building. Accordingly, the deletion of reference to photographs would have little effect on the clarity of the Notice and it would not cause injustice to the parties in the appeal.

[1] *Miller-Mead v MHLG* [1963] 2 WLR 225
[2] *Oates v SSCLG & Canterbury CC* [2018] EWCA Civ 2229

The appeal on ground (f)

12. This ground of appeal is that the steps required by the Notice to be taken exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity caused by the breach.

13. In this case, the Notice alleges operational development including the display of an unauthorised illuminated advertisement and it requires the unauthorised development and advert to be removed. The Notice does not 'under-enforce'. The purpose of the Notice must therefore be to remedy the breach.

14. For that reason, and because the appellant has not appealed the Notice on ground (a), so that I could consider planning merits, I have no scope to consider whether the requirements of the Notice are excessive to remedy any injury to amenity. The only case the appellant can make for ground (f) is that lesser steps would suffice to remedy the breach.

15. The appellant's contentions in relation to security requirements, absence of harm to the streetscape or other amenity, or the use of similar shutters elsewhere nearby, for example, are not subsequently matters for consideration under the ground (f) appeal.

16. The appellant has offered to reduce the signage illumination or replace it altogether. However, no specific details of those proposals, or how they might be secured, are provided in evidence. While the six-month period for compliance with the Notice would afford the appellant the opportunity and time to discuss such options directly with the Council, those suggested measures would not remedy the breach of planning control described in the Notice for the purposes of this appeal. Accordingly, the appeal on ground (f) fails.

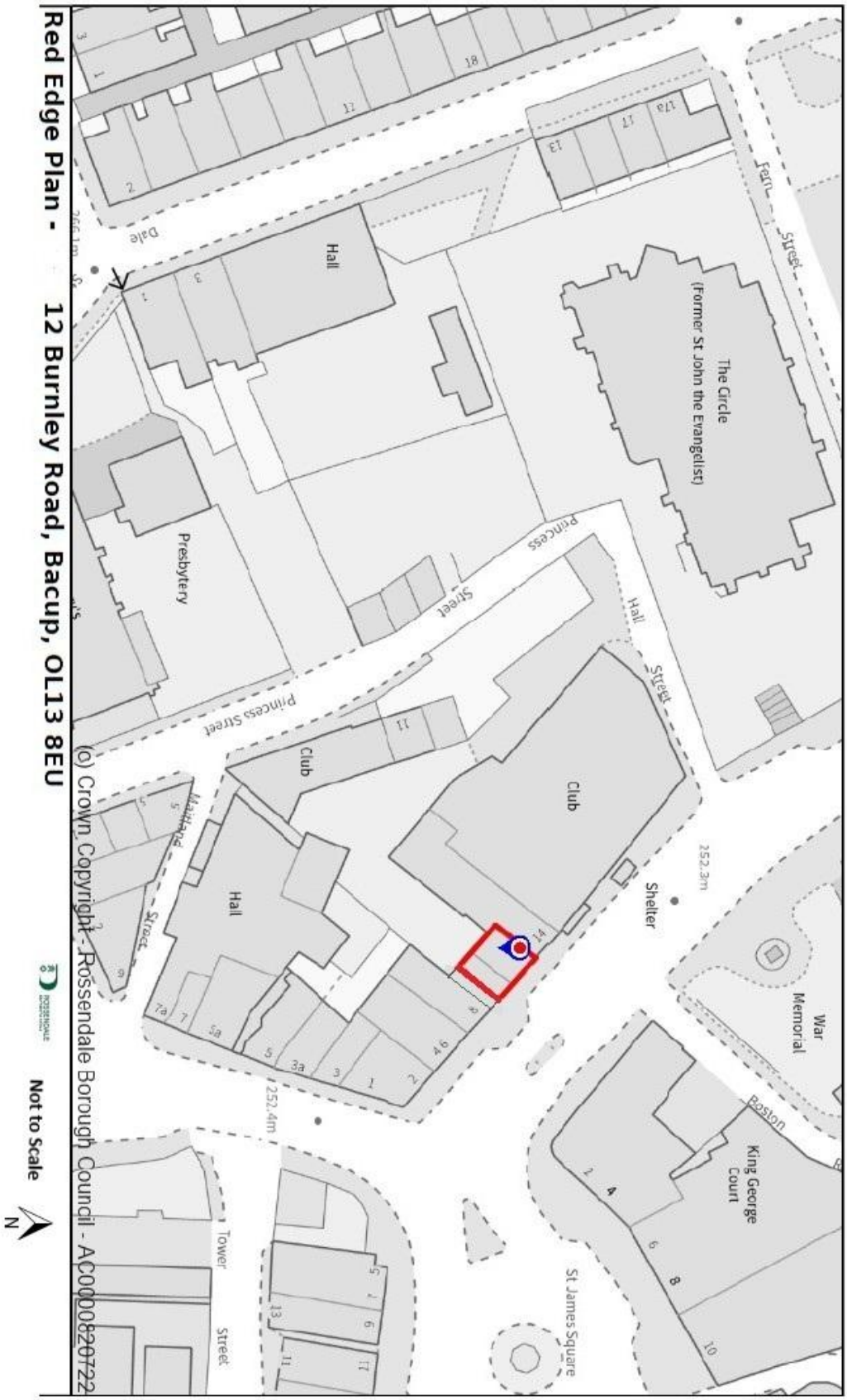
Conclusion

17. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

R Hitchcock

INSPECTOR

Appendix


Red Edge Plan - 12 Burnley Road, Bacup, OL13 8EU
Not to Scale
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(c) Crown Copyright - Rossendale Borough Council - AC0000820722
Hall
Presbytery
The Circle
(Former St John the Evangelist)
Princess Street
Princess Street
Hall Street
Club
Club
Hall
Shelter
War Memorial
King George Court
St James Square
Tower Street
Fern Street
Dale
Market Street
Boston
252.3m
252.4m