

RUGBY BOROUGH COUNCIL

QUESTION PURSUANT TO STANDING ORDER 10

COUNCIL – 20 JULY 2021

QUESTION I

Councillor Ellis to ask the Growth and Investment Portfolio Holder, Councillor Mrs Simpson-Vince:

“What enforcement powers does Rugby Borough Council have on the monitoring of the building standards for new builds and what action can it take if they fall below the required standard?”

Councillor Mrs Simpson-Vince, Growth and Investment Portfolio Holder, to reply as follows:

“A local authority has a general duty to enforce the building regulations in its area and will seek to do so by informal means wherever possible. If informal enforcement does not achieve compliance with the regulations the local authority has two formal enforcement powers which it may use in appropriate cases.

First, if a person carrying out building work contravenes the Building Regulations, the local authority may prosecute them in the Magistrates' Court where an unlimited fine may be imposed (sections 35 and 35A of the Building Act 1984). Prosecution is possible up to two years after the completion of the offending work. This action will usually be taken against the person carrying out the work (builder, installer or main contractor).

Alternatively, or in addition, the local authority may serve an enforcement notice on the building owner requiring alteration or removal of work which contravenes the regulations (section 36 of the 1984 Act). If the owner does not comply with the notice the local authority has the power to undertake the work itself and recover the costs of doing so from the owner. A section 36 enforcement notice cannot be served after the expiration of 12 months from the date of completion of the building work. A local authority also cannot take enforcement action under section 36 if the work carried out is in accordance with the full plans which the authority approved or failed to reject. An appeal against a section 36 notice may be made to a Magistrates' Court under section 102 of the Building Act.

Where an approved inspector is providing the building control service, the responsibility for checking that the building regulations are complied with during the course of the building work will lie with that inspector. They will usually do this by advising the person carrying out the work.

However, approved inspectors do not have formal enforcement powers. In a situation where the inspector considers the building work does not comply with the building regulations and there is a refusal to bring it into compliance the inspector will cancel the initial notice. If no other approved inspector takes on the work, the building control function will automatically be taken on by the local authority. From this point on, the local authority will also have enforcement powers set out above where it considers this necessary.”