

Buying and selling property and the building regulations

Building regulations consent is required for most building work. The regulations are designed to make sure that building works do not adversely affect people's health and safety. Compliance with the building regulations is a separate matter from obtaining planning permission.

West Lindsey District Council holds comprehensive and complete records and is able to confirm if building regulation consent was needed and obtained for particular works.

Where property is bought or sold the solicitors, conveyancers and surveyors involved in the transaction will wish to check whether any building work undertaken at the premises required approval under the building regulations and if so, whether the work has:

1. A valid building regulations approval notice and
2. A building regulations completion certificate

Taken together these two documents constitute a full building regulation consent.

There is a duty to take reasonable steps to obtain copies of building regulation consents. If they do not exist or cannot be obtained prior to completion the buyer needs to be fully informed of all the risks

What needs to be checked?

The building regulation approvals and consents granted in respect of the property need to be checked against the works which have actually been carried out. This is normally done by the buyer's solicitor or surveyor. When considering what works have been carried out they will check:

1. The seller's replies to enquiries
2. Any works identified on the buyer's survey report
3. That an approval notice and completion certificates was obtained in respect of each set of building works identified
4. The results of the local search for enforcement notices

In cases of doubt West Lindsey building control will be able to advise on the need for building regulation consent, the approval history of a property and the existence of any building regulation issues or formal enforcement notices.

What happens if any works don't have the appropriate building regulation consent?

If the work has building regulation approval notice but no completion certificate the property owner should request West Lindsey building control to do a final inspection of the work and either identify any problems or issue the completion certificate. It is the policy of the council to work collaboratively with the property owner to resolve any issues that are found. If this is not possible then there is an alternative to move to enforcement action.

If there is no building regulation approval notice a property owner can apply to West Lindsey building control for a regularisation certificate. This only applies in respect of unauthorised work carried out on or after 11 November 1985.

In deciding whether to issue a regularisation certificate, the council will assess if remedial work needs to be carried out, in accordance with the building regulations that applied at the time. The owner will be given an opportunity to carry out the specified works. If this is not done then the council may proceed to enforcement action.

Where unauthorised work is discovered it is normal practice for the seller to seek and obtain the completion or regularisation certificates and some solicitors make this a condition of the sale.

If the works were completed less than 12 months ago there is a risk that an enforcement notice (issued under the Building Act 1984) may be served on the builder or the current owner of the property. The notice can require the recipient to pull down the works or make alterations. West Lindsey would only consider this option where there are clear contraventions of the building regulations associated with the work.

Where the work was completed more than 12 months ago West Lindsey District Council can apply to the court for an order to rectify defective work. This option would be considered if there were clear risks to health and safety at the property.

All liability for defective work lies with the building owner and would transfer to the buyer in the event of a property sale. Some financial institutions offer indemnity insurance against the cost of complying with an enforcement notice or court order.

The advice is always to contact West Lindsey building control if there is any doubt as to whether the correct building regulation consents are in place. The council will provide all the help and assistance necessary to assist a property sale.