

NEWLY BUILT PROPERTIES

Buying a brand new property can be an attractive proposition. It is possible to negotiate extras or changes to the specification to customise it to requirements from day one; and as the building is new one can normally expect minimal maintenance for at least a few years.

There are a few additional legal considerations to be aware of in new builds.

Consumer Code

The Consumer Code for Home Builders is a voluntary code for developers and is now in its 4th edition. The Code aims to ensure that all home buyers are treated fairly, know what levels of service to expect, are fully informed about their purchase and their consumer rights, and are provided with a speedy low cost dispute resolution scheme to deal with complaints.

The code is supported by the major providers of 10 year warranty insurance (see below).

Contract

The developer usually has a standard form of contract which he will not easily agree to vary. A point to watch is how the deposit will be held between exchange and completion. If this is not as "stakeholder" i.e. neutrally between the parties until completion, this is slightly more risky for the buyer.

Timing will depend on progress with the construction. Often contracts are exchanged before the building work is finished so instead of a fixed date for completion, when the balance purchase money is paid and keys are released, completion will be on notice (probably 2 weeks). If there is a related sale the buyer of that property will need to agree the same notice period.

The contract will stipulate how minor variations from the specification will be dealt with and also any boundary discrepancies which arise.

Because the transaction involves dividing one large area into smaller plots, the documentation will include provisions for maintenance of new boundaries and rights to access drains and service installations across neighbouring properties.

Planning and infrastructure

The contract should specify that the building will be in accordance with planning consent for the development and a building regulations certificate should also be available when construction is complete.

Appropriate agreements for estate roads and sewers to be constructed should be available to the purchaser and these should be checked to make sure that no liability will fall on the individual plot buyers.

10 year warranty

Buyers' solicitors should check that a 10 year warranty with NHBC or an equivalent organisation will be available from completion. This protects against major defects in construction for a period of up to 10 years.

Mortgage lenders

Mortgage lenders will need to be consulted on various points for example if the deposit is held as agents for the vendor, if the estate roads and sewer agreement are not available and a retention is

required. The mortgage lender must also be made aware of any incentives through the normal disclosure of incentives form e.g. where the developer offers to reduce the price for a quick exchange or pay the buyer's stamp duty land tax. The mortgage lender must also be consulted in the unusual case where stage payments are involved as this will involve release of the mortgage advance in separate tranches.

Communication

It pays to keep in touch with the site office to check progress and also report any relevant matters agreed to your solicitor including reservation fees paid, extras ordered and the costs of these and any dates that are given for estimated completion of construction works.

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