

INTERFERENCE WITH A RIGHT OF WAY - HOW FAR CAN THE GRANTOR GO?

If you grant a right of way you cannot then interfere with it if the right of way cannot be “substantially and practically exercised as conveniently as before”. Any interference producing this result will be unlawful.

However, in a recent case Waterman v Boyle a right of way had been granted and the parties then fell out. The grantor of the right of way decided to build a wall on his own land along the boundary of the right of way. The wall prevented vehicles that were using the right of way from swinging over the adjoining land so that they could turn into a garage.

The court held that this was not an unlawful interference. The wall had not been built on the right of way itself and there was no scope to interpret the parties’ intention at the time of the grant as an intention to provide the grantee with a sufficiently wide right of way so as to allow the reasonable use of motor vehicles.

Instead, one should look at the precise boundaries of the right of way; and if those had not been interfered with then it would have to be “quite exceptional” for anything done on adjoining land to amount to an unlawful interference.

If you wish to discuss any of the issues raised in this article, or for information on any other commercial property matters, please contact Jenny Harbord on 01872 226994, or by email: jenny@murrellashworth.co.uk.



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