

Claim of the Month: Following the Right Road



Access rights can be tricky to resolve. This case demonstrates how appropriate insurance can help even when the situation seems insoluble.

Having completed the purchase of an old farm, the Insured commenced renovation works. These involved large lorries delivering materials to the farm, which was served by two accessways, both of which were insured for lack of a legal right of access by First Title Insurance plc. 'Accessway A' was across a field owned by the neighbouring property and was used for the delivery of materials as it was a more direct route to the property.

Previous owners had used this route for over 40 years. 'Accessway B' was via a narrow residential street and involved a steep hill and sharp turn, making it unsuitable for use by lorries and in adverse weather conditions.

Once renovation works were underway the Insured found their use of Accessway A had been blocked by a skip placed over the entrance by the neighbour. The Insured politely asked the neighbour to move the skip, but he refused and disputed that the Insured had a legal right to use his field for access to their farm. Delivery lorries tried to use Accessway B as an alternative

route but this was entirely unsuitable and their efforts were unsuccessful.

Panel solicitors, instructed by First Title Insurance plc, liaised with the neighbour's solicitors to try and bring the matter to an amicable conclusion and avoid court proceedings. Unfortunately they were unsuccessful and within months of the claim being received, proceedings were issued against the neighbour for a declaration that a legal right of way existed over his field in respect of Accessway A.

During these proceedings, the parties agreed to a mediation hearing which resulted in the Insured being transferred part of the neighbour's field to place an alternative accessway through to their property and if this was not possible due to planning regulations, then they would be granted an express right of way of Accessway A.

First Title Insurance plc made payment under the policy for the settlement amount and all legal expenses.

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