

Land/Neighbour Case Study

Farmer A claimed he had a right of way obstructed by Farmer B, which meant that he couldn't use two of his fields. He claimed that he had lost £30,000 profit over two years. B maintained that A had no right of way. A started court proceedings. The parties agreed that the proceedings should be put on hold to try mediation.

At the mediation, B told the mediator in his private meetings that he didn't really have a problem with A using the strip of land, but he had become irritated that A assumed that he could use it as of right. The strip wasn't actually much use to him. He was worried that matters had got this far. He didn't have any capital to pay Farmer A if he lost. He had already spent £10,000 in legal fees. His solicitor had advised that the legal costs could be as high as £40,000 to go to trial.

In private meetings with A, he told the mediator that he wasn't bothered if he didn't get all his compensation, but he would like something. He said it was more important to establish that he did have a right of way because he needed access to his two fields. There was another access way but it was restricted and he couldn't get the larger farm machinery on to the fields using the other route. He had tried to discuss the matter with Farmer B, but he refused to talk directly to him and only through his solicitor.

The parties settled with B accepting A's offer to buy the strip of land for £7,000. Both parties knew the strip was worth more. B was very anxious to avoid paying anything to A with regard to his claim. A agreed to drop his claim if he could buy the strip of land. It was more important to him in the long run to have established access.

With the help of the mediator the parties were able to reach their own solution. Neither had to continue to worry that a Judge would find one of them right and one wrong. A Judge would not have had the power to come up with this final solution.