

Does a right of access mean a right to park?

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A case dealing with the parking rights relating to three adjoining houses, all part of a development of older agricultural buildings, has been decided by the Court of Appeal. It has implications for developers of similar properties, such as barn conversions as well as car parking areas in commercial developments in more general terms.

If you are considering buying land where there may be issues over access, parking or use of adjoining land, it is important to make sure that your legal rights are clear in the relevant documentation. Contact Andrew Renton, Partner for further advice on the law relating to rights and easements.

The case produced, in the Judge's words, a “snowstorm of incidents and issues” relating to the right of the owners of one of the houses to park on land adjacent to the properties and in spaces in the lane serving the properties. The Court concluded that for the right to park to be implied by a right of vehicular access, the ability to park must be “reasonably necessary” for the exercise or enjoyment of the land being accessed. It is not sufficient that the right to park is desirable. Parking must be necessary to make proper use of the land for which the access right has been granted. In other words, there is no automatic right to park if there is a right of vehicular access to a piece of land.

In her conclusion, Lady Justice Arden commented that, “There is a common misunderstanding that an Englishman's home is his castle in the sense that he can build walls, put up gates and do other acts on his land whenever he chooses, and without regard for his neighbours ... While it is often true that a person can do what he wants on his own land, it is not always so. The law expects neighbours to show some give and take towards each other ... Parties to other boundary disputes and their advisers should also, at all times, have this point firmly at the forefront of their minds, and seek to resolve their disputes accordingly, and without resort to complex and expensive litigation.”