Melfort Pier Holidays Ltd v The Melfort Club and Others

Creation of public rights of way – need for public place end points · https://scotways.com/ken/melfort-pier-holidays-ltd-v-the-melfort-club-and-others/

Case Report: [2006] CSIH 61

Scottish Courts Service Outer House decision, Appeal to Inner House decision.

This was an application for an interim interdict. The pursuers were developing a holiday resort near Oban. This required large vehicles to use the access road and at one point they encroached onto part of the defenders' driveway in order to manoeuvre along the public road. The defenders had placed bollards on their driveway to prevent this, and the pursuers sought an interdict to require removal of the bollards. The defenders claimed, amongst other things, that no public right of way was created because the encroachment did not lead from one public place to another, but involved circuitous manoeuvring.

The interim interdict was granted in the Outer House and upheld on appeal to the Inner House, where it was said that it appeared that the public right of way was the public road as a whole, together with a variant over the area of the driveway which the pursuers sought to establish by reason of prescriptive user. The court said that there were some doubts about the case, but because this was an application for an interim interdict it was sufficient that the pursuer had established a prima facie case.