NORTHERN IRELAND VALUATION TRIBUNAL

THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007

CASE REFERENCE NUMBER: 04/25

AB25 - APPELLANT

AND

DEPARTMENT OF FINANCE - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James Leonard, President

Members: Mr B Reid FRICS and Mr G McKenna

Belfast, 27 August 2025

DECISION

The unanimous decision of the tribunal is that the appellant's appeal is **unsuccessful** for the reasons stated and the appeal is dismissed by the tribunal, without further Order.

REASONS

Introduction

1. This is a reference under Article 12B of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). In view of the nature of this appeal, as is customary, the tribunal has sought to redact both the identity of the appellant (who is hereinafter referred to as "AB25" or "the appellant") and of the subject premises (which will be referred to as "the property"). The appellant in her submitted Form of Appeal (Form 2) dated 13 February 2025

had stated that she wished to have an oral hearing, but that she was unable personally to be in attendance at the tribunal venue. Accordingly, she wished to have the hearing held remotely, by electronic means. Appropriate arrangements were duly made. The Chair of the tribunal attended remotely for the hearing, as did the tribunal panel members and also the representative appearing on behalf of the respondent, the Department of Finance ("the Department"), who was Mr Saunderson.

2. Regarding the appellant's attendance at and participation in the hearing process, a Notice of Hearing had been duly dispatched to the appellant confirming that the hearing would take place at 10.00 am on 27 August 2025. No request was communicated to the tribunal at any time prior to the listed hearing date and time, by on behalf of the appellant, for the hearing to be postponed. The tribunal accordingly sat to hear the case, as scheduled, at 10.00 am on the listed hearing date, but there was no appearance (whether remotely-conducted or otherwise) by or on behalf of the appellant and no contact was made with the tribunal by or for the appellant concerning participation in the remote hearing process system, which had been arranged to facilitate the appellant. A link to the WebEx hearing had earlier been sent to the email address provided by the appellant.

3. As the appellant had not appeared (remotely) the tribunal decided to defer the commencement time of the scheduled hearing in order, potentially, to facilitate the appellant. The tribunal clerk sent further communications to the appellant confirming the WebEx link to the hearing. By 11.45 am, having allowed what was determined by the tribunal to be a reasonable period of additional time afforded to the appellant to appear at hearing (one hour and 45 minutes), the tribunal sat to hear the appeal, with the three panel members attending by WebEx and also with the Department's representative, Mr Saunderson, attending by this means.

4. The background to the case is that the appellant had appealed against the outcome of a review of a decision of the Department that the appellant was not entitled to claim Disabled Persons' Allowance ("DPA") in regard to the subject of this appeal (the property). The appellant has indeed requested two separate reviews and (material to this appeal) the outcome of the latter was communicated to the appellant by letter from the Department dated 31 January 2025. It is perhaps worthwhile at this point setting out the typed detail underpinning the appellant's appeal, as this has been expressly incorporated into a printed document annexed to the appellant's appeal form, which form was otherwise completed in manuscript. This typed detail reads as follows:

> "*RE DISABLED PERSONS ALLOWANCE*
> *I have been registered as severely physically disabled*

Since 2022
I have been given a blue badge
I walk with a stick
I have one other stick and a rolater
I have rails throughout my house and outside
Wed last 3 rails were added
Since 2022 I have been falling
I have had my bath removed
I have had a shower installed costing £600
But I have no receipts
My doctor and my occupational therapists
Can prove this
I believe all the details proved
Must be enough to gain me the full
Disabled persons allowance
I must add that since my 3 violent assaults on
12TH August 23
My severe physical disability is much worse
She will send you a report by Dr M Jones
My pain consultant
He examined me 26th June 24".

The Law

5. The statutory provisions relevant to this appeal are to be found in the 1977 Order. Article 31A (12B) of the 1977 Order was inserted by Article 17(8) of the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order"). Article 31A (12B) enables a person to appeal to the Northern Ireland Valuation Tribunal against the result of a review by the Department (the respondent to this appeal) of a decision that a person is not entitled to a rate rebate for a property with a special facility for a person with a disability. This is commonly referred to as Disabled Person's Allowance ("DPA"). As it is agreed in this case that the appellant, who resides in the property under discussion, meets the relevant criteria as being a person who has a disability for the statutory purposes, the tribunal's essential focus is upon the property and the tribunal is accordingly not required to specifically address the statutory provisions regarding whether the appellant has, or has not, a qualifying disability, nor is residence an issue, save to confirm that these statutory criteria have been met by the appellant, without more. Nothing further therefore needs to be said about that: it is not an issue in the case. Article 17 of the 2006 Order (amending the 1977 Order) provides for rate rebates for certain hereditaments with special facilities for persons with a disability. Article 17, insofar as material to this appeal, provides as follows —

" (2) This Article applies to—

(a) a hereditament in which there is a facility which is required for meeting the needs of a person who resides in the hereditament and has a disability, including a facility of either of the following descriptions—

(i) a room, other than a kitchen, bathroom or lavatory, which is wholly or mainly used (whether for providing therapy or for other purposes) by such a person; or

(ii) an additional kitchen, bathroom or lavatory; and

(b) a hereditament in which there is sufficient floor space to permit the use of a wheelchair used by and required for meeting the needs of a person who resides in the hereditament and has a disability.

(3) In paragraph (2)—

(a) …..

(b) subject to paragraph (3A), references to a facility or a wheelchair being required for meeting the needs of a person who has a disability are references to its being essential or of major importance to that person's well-being by reason of the nature and extent of the disability.

(3A) a wheelchair is not required from meeting a person's needs if he does not need to use it within the living accommodation comprising or included in the hereditament."

Article 17 further provides that any person who is aggrieved by a decision of the Department may apply to the Department for a review by the Department of its decision and if that person is dissatisfied with the result of the review, they may appeal to the Northern Ireland Valuation Tribunal, which is what the appellant has done in this case.

The Evidence

6. The tribunal has been provided with documentation, including the following:

6.1 The appellant's form of appeal (Form 2) together with the typed document incorporated therein (as mentioned above).

6.2 The Disabled Persons' Allowance application form, as completed by the appellant.

6.3 A communication from Personal Independence Payments to the appellant (confirming receipt of the standard rate of disability living allowance and the enhanced rate of mobility allowance).

6.4 Copies of telephone logs concerning contacts made with the appellant concerning the award of DPA.

6.5 Copy of a “Decision Sheet” dated 18 December 2024 concerning the appellant, confirming the outcome and the reasons for the decision rejecting the DPA claim.

6.6 Copy of a letter dated 18 December 2024 from the Application Based Rate Relief Team (LPS) informing the appellant that her claim for DPA had not been successful and the reasons for this. The entitlement available to the appellant to ask for a review was also stated in the letter.

6.7 Copy of a “Decision Sheet” dated 24 December 2024 concerning the appellant, confirming the outcome and the reasons for the decision rejecting the DPA claim.

6.8 Copy of a letter dated 30 December 2024 from the Application Based Rate Relief Team (LPS) informing the appellant of the outcome of a review; that her claim for DPA had been unsuccessful and the reasons for this. The entitlement to appeal to the Northern Ireland Valuation Tribunal was also stated in the letter.

6.9 Copy of a letter dated 31 January 2025 from the Application Based Rate Relief Team (LPS) to the appellant advising that her application for DPA had been unsuccessful for the reasons stated and of her entitlement to ask for a review.

6.10 Copy of a “Decision Sheet” dated 12 February 2025 concerning the appellant confirming the outcome and reasons for the decision rejecting the DPA claim.

6.11 Copy of a letter dated 12 February 2025 from the Application Based Rate Relief Team (LPS) to the appellant advising that her application for DPA had been unsuccessful, in that she had requested a review on 7 February 2025 but was unsuccessful, for the reasons stated. The entitlement to appeal to the Northern Ireland Valuation Tribunal was stated in the letter.

6.12 Copy further correspondence regarding the matter, including emails.

6.13 A Presentation of Evidence from the Department regarding the matter, setting forth the facts of the case, with a timeline provided, details of which timeline have been noted by the tribunal. The grounds of appeal are stated to be that the appellant has appealed the decision dated 31 January 2025 not to award DPA based on the decision that the appellant did not meet the qualifying criteria. The remainder of the content of the Presentation of Evidence shall be mentioned below in the tribunal’s recording of the details of the Department’s case.

The Department's Case and the Appellant's Case

7. Dealing firstly with the Department's case as presented in this appeal, this is set forth in the Presentation of Evidence. It is mentioned that the appellant had supplied evidence from the Department of Communities which confirmed that the appellant was entitled to the enhanced rate of PIP mobility and the standard rate of daily living. This evidence is stated to have satisfied the Department that the appellant was a person to whom Article 16 of the 2006 Order applied and that the appellant was considered by the Department to be "substantially and permanently disabled".

8. Under the title of "Facility", the Presentation of Evidence makes reference to section 3A of the application form referencing: "*A room…. which is wholly or mainly used by the person with a disability for therapy or other purpose. Any room used as a bedroom will not qualify*". Under the question: "*What room is it*?" the appellant has stated "*bathroom*" and under: "*What is it used for?*" the appellant has stated "*showering – toilet – hand basin*". Under: "*Date room was adapted*", the appellant has stated "*2022*".

9. Setting forth the reason for the (rejection) decision, the Presentation of Evidence records that the bathroom is an existing facility which the appellant has confirmed had been modified to have the bath removed and a shower installed and also that the appellant had added handrails. The appellant had indicated that this was the only bathroom within the property and therefore it was not considered "additional". The decision-maker accordingly decided that this was not an additional facility and therefore that it did not meet the criteria for entitlement to DPA, under Article 31A (2) of the 1977 Order. The following is not relevant to the appeal, but is nonetheless stated for completeness. It was mentioned that the appellant had stated that she had spoken to her GP and had supplied medical evidence to LPS. In the typed note attached to her application, the appellant had stated that her medical records were with LPS and she had mentioned that LPS had no right to see these. For the respondent it was stated that LPS had only received evidence of the PIP award and the Department had not requested any further information from the appellant, as detailed in paragraph 9 of the submission. In the application form received on 11 December 2024, in section 4 the appellant gave consent for her GP to be contacted for further information, if required. The Presentation of Evidence then proceeded to set forth the provisions of Article 31A (as referenced above). It was submitted that the decision made in the matter was supported by case law: the case of ***Luton Borough Council v Ball [2001]*** with a summary of that specific case being provided as follows:

"*The taxpayer had converted the bathroom into a shower room to meet her needs but relief was refused and in making the decision, Judge Turner said that what was necessary…. was a consideration of the regulations and their purpose. He said that the purpose of the regulations was to relieve an eligible person of what would otherwise be an increase in their council tax liability when they needed a room in their dwelling which was required for meeting the needs of a qualifying individual resident in the dwelling, and he found that there was no "additional room" in this instance*."

10. It was therefore submitted (albeit referring to the Council Tax regime in England) that this cited case of ***Ball*** was on all fours with the present case and illustrated the principle underlying such matters.

11. The appellant's submissions are incorporated into her form of appeal and did not include any specific submissions concerning matters of statutory or case law applicable to the matter, merely asserting that she was entitled to such relief. It is clear that the appellant feels significantly aggrieved by the decision-making of the Department, in that an award of DPA has been denied to her. The tribunal shall deal further with the appellant's case in setting out its decision in the matter.

The Tribunal's Decision

12. Firstly, it might be helpful if the tribunal referred to a relatively recent case emanating from the Northern Ireland Court of Appeal in this jurisdiction, which case has provided considerable guidance and assistance to the tribunal in the determination of this type of case. It is noted that this significant Court of Appeal case was not referred to by the Department in submissions and Departmental officials are encouraged to take account of the case in regard to future cases of this type. The case is very helpful in understanding the essential principles underlying the legislation. This Court of Appeal judgment constitutes a binding authority upon the tribunal. The case is: ***The Department of Finance v Mary Quinn [2019] NICA 41***, being a judgment delivered by the Court of Appeal on 4 September 2019. In the Court's judgment, after having conducted a review of the evolution and history of the pertinent Northern Ireland statutory provisions and any connection with equivalent legislation in England and Wales, this (selected) part of paragraph 33 of the judgment of Stephens LJ (as he then was) delivered in the case on behalf of the Court, is instructive:

> *"[33] … to resolve the meaning of the word "including" in Article 31A(2)(a) it is permissible to look to the purpose of the legislation and its historical context. We accept that the fundamental purpose of Article 31A is to provide rate relief where a dwelling's rateable value is increased by the facility which is required for meeting the needs of a person who resides in the hereditament and who has a disability. ….. In short the purpose of Article 31A is to provide a rate rebate which must be referable to rates incurred as a result of the requirement of a facility. Furthermore the mischief that the DPA was designed to remedy was additional space and facilities that result in a higher valuation. …. However, we consider that the purpose would be undermined if any facility falling within the natural and ordinary meaning of the preceding words gave rise to the obligation to grant a rebate. If that was so then, for instance a grab rail in the hallway of a dwelling which had no impact on the rateable value but which was a facility which was required for meeting the needs of a person who resides in the hereditament and who has a disability, could give rise to the obligation to grant a rebate of 25%. That would not be in accordance with the purpose of the legislation but rather would undermine that purpose.*

We consider that an exhaustive meaning of the word "including" secures the legislative purpose."

13. Bearing in mind the helpful guidance emerging from the foregoing (and considering the Court's judgment in ***Quinn*** generally) the tribunal is required to consider the purpose and the intent of the legislation. The tribunal's focus must be upon the relatively narrowly-depicted list of matters which have been expressly identified by the appellant. This focus includes the all-important statutory framework. That must be applied to this case and to any other case of this nature. In order to succeed, the appellant shall have to satisfy the tribunal that the property has a facility which is required for meeting her needs as a person residing in the property who has a qualifying disability. Therefore, the tribunal must be satisfied that there is a facility which includes either: (a) a room, other than a kitchen, bathroom or lavatory, which is wholly or mainly used (whether for providing therapy or for other purposes) by her or, if such a room does not exist, then (b) an additional kitchen, bathroom or lavatory, either of these facilities (that is to say either (a) or (b)) being essential or of major importance to her well-being by reason of the nature and extent of her disability. The issue of wheelchair requirement (see Article 17 (2)(b) and(3)(b) and (3A)) insofar as it might be in any way applicable, shall be subject to a further reference below.

14. Dealing with these matters, on the facts there is no <u>additional</u> kitchen, bathroom or lavatory in the property. This is the determination of the tribunal, as a matter of fact, based upon the available evidence and upon the case expressly made by the appellant. Accordingly, if the appeal is otherwise to succeed the tribunal must be satisfied that there is a room wholly or mainly used, whether for providing therapy or for other purposes by the appellant, being essential or of major importance to the appellant's well-being by reason of the nature and extent of her disability. A "kitchen, bathroom or lavatory" is expressly excluded from this latter focus by Article 17(2)(a)(i) by inclusion of the words "other than" in reference to any such room in question. Again, there is no evidence of any of this, which would be necessary to satisfy the statutory requirement.

15. In similar terms (although the appellant has it seems not expressly put this forward as a point in her appeal), the available evidence is that no wheelchair is used, in any event. Under the statutory provisions, references to a facility or a wheelchair being required for meeting the needs of a person who has a disability, are references to it being essential or of major importance to that person's well-being, by reason of the nature and extent of the disability and actual use (see Article 17 (3)(b)and (3A)). However, as a wheelchair is not used by the appellant - as far as the available evidence goes - the issue of whether there is, or is not, sufficient floor space to permit the use of a wheelchair (see Article 17 (2)(b)) is of no concern and no relevance in this case. None such is used by the appellant, nor required for meeting the needs of the appellant.

16. As mentioned, the Court of Appeal judgment in ***The Department of Finance v Mary Quinn*** is of considerable assistance in determining this appeal. This

tribunal in earlier decisions has followed the general guidance given in a number of legal authorities including one mentioned above in the Department's submissions. As is clear from ***Quinn***, the purpose of the applicable law encompasses the notion of something "additional" to the norm. That is to be found in the proper interpretation of Article 17 of the 2006 Order as this amends the 1977 Order. In ***Howell Williams v Wirral Borough Council [1981] 79 LGR 697, CA***, Fox LJ stated…, "*It cannot have been the intention of Parliament to grant a rebate merely because a room is predominantly used by a disabled person……It seems to me that the user of the room must relate to the disability*." The tribunal, further, notes the case of ***Department of South Gloucestershire Council v Titley & Clothier [2006] EWHC 3117 (Admin).*** On the facts of that matter, Mr and Mrs Clothier were the parents of two Down's syndrome children, each of whom had a bedroom in the premises where he or she spent a great majority of time each day, alone. There was no physical adaptation made to the bedrooms. Mr and Mrs Clothier described each room as a "sanctuary". On appeal, the Court of Appeal in England (dealing with English statutory Council Tax provisions which are in the essential parts thereof expressed in broadly similar terms to the 1977 Order, as amended) made the observation that even if neither of Mr and Mrs Clothier's two children had had any disability whatsoever, but were still living in the same household as Mr and Mrs Clothier, each would have had their own bedroom anyway - neither bedroom was in any sense "additional". The Court of Appeal therein affirmed its earlier decision in ***Howell Williams***.

17. In this appeal, there is a shower room, but no evidence that there is a room which qualifies as being additional; indeed the appellant has not tried to make out that case. She has predominantly relied upon proof of disability (which is not in any manner in contention in this appeal) and the appellant has relied upon the conversion of a downstairs bathroom from having a bath to having a shower, with hand rails added.

18. Examining all of this, the tribunal's unanimous view is that the bathroom is not a qualifying facility, for the purposes of the statute. The tribunal reminds itself of the words of the Court of Appeal in ***Quinn***, rejecting the contrary proposition: "*If that was so then, for instance a grab rail in the hallway of a dwelling which had no impact on the rateable value but which was a facility which was required for meeting the needs of a person who resides in the hereditament and who has a disability, could give rise to the obligation to grant a rebate of 25%. That would not be in accordance with the purpose of the legislation but rather would undermine that purpose*". The tribunal takes a similar view in respect of the bathroom; this view taken by the tribunal does not need any further elaboration, as it is hopefully entirely clear why the tribunal has made this determination.

19. For these reasons, the appeal cannot succeed. Consequently, the tribunal's unanimous decision is that the appeal is dismissed, without further Order.

James Leonard

James Leonard, President
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 22 September 2025