

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

CASE REFERENCE NUMBER: NIVT 15/25

EF26 - APPELLANT

AND

DEPARTMENT OF FINANCE - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James Leonard, President

Members: Mr Brian Reid FRICS & Mr Garry McKenna.

Hearing: 25 June 2026, Belfast

DECISION

The unanimous decision of the tribunal is that the appeal is not successful for the reasons provided below and the appeal is accordingly dismissed by the tribunal. The tribunal makes some further observations concerning the particular circumstances of the case, which are recorded at the conclusion of the decision.

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 the tribunal, as it does in all cases of this type, has sought to redact the identity of the appellant (who is hereinafter referred to as "EF26" or "the appellant") and also identifying details of the hereditament under consideration have been redacted, for the same reason, the premises being located in County Londonderry. It was arranged that the appellant would appear at hearing, remotely, by WebEx and in doing so she was accompanied by her representative who was Councillor Rory Farrell. The respondent Department was represented by Ms Karen Gibson of Land & Property Services, who also attended remotely by WebEx. The panel members attended in person at the

tribunal hearing venue. The appellant 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").

The Law

2. The relevant statutory provisions considered by the tribunal in 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 premises with a special facility for a person with a disability. This is referred to as Disabled Person's Allowance (DPA). 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—

“(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.”

Article 17 of the 2006 Order 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.

3. As the hearing of the matter proceeded, the tribunal's attention was drawn by the respondent's representative to the initial application form for DPA as submitted by the appellant dated 18 November 2024. The tribunal was invited to consider the content of that application and especially so section 3A of the form, where the appellant has identified a bathroom in the property adapted in

2016 where the appellant states, *"I had to get my bath taken out and shower cubicle put in with a grab rail"*. There is provision in the standard form for any applicant for DPA to complete additional options, but it is noted that nothing further is completed in this part of the form, apart from the reference to the bathroom adaptations. In a specific typed addendum completed by the appellant in reference to the application form, the appellant has expressly referred to the bathroom adaptations, but there is nothing else referred to. In answer to a specific question to her subsequently from the Department, the appellant confirmed that the property had one bathroom including a shower, wash hand basin and toilet. She had stated that she lived on her own and therefore only needed one bathroom. There was no additional bathroom. By letter dated 10 January 2025, the Department wrote to the appellant stating that her application for DPA had been unsuccessful as it did not meet any of the three potential criteria (these being the statutory criteria referred to above in the tribunal's statement of the applicable law). The appellant was advised of her entitlement to seek a review of the rejection of her application for DPA, which she duly did.

4. On behalf of the appellant, Mr Brian Tierney, a Community Outreach Officer, wrote to the Department on 6 February 2025 stating that the appellant wished to appeal the decision not to award her DPA (referencing an application for a review). The communication from Mr Tierney continued by stating that the appellant had a downstairs room in her home which she used as a treatment and sensory/therapy room, with various equipment set up solely to treat her disabilities and which she believed should qualify her for DPA. It was requested that this would be taken into consideration in regard to her appeal (review application) of the decision to reject her initial application.
5. The Department wrote to the appellant in respect of her request for a review of the original decision dated 10 January 2025 stating that the Department had considered the appellant's request along with any additional evidence and determined that the original decision should remain unchanged. The appellant was informed of her entitlement to appeal the review decision to the Northern Ireland Valuation Tribunal.
6. The tribunal, considering the content of the communications at the time, cannot but form the view that the approach adopted by the Department is manifestly confused and considerably lacks proper clarity. The Department's position ought to have to have been made entirely clear to the appellant. However, for some reason that was not done. At the tribunal hearing, the

Department's representative, Ms Gibson, clarified that a fresh application by the appellant for DPA would be needed for the reason that, in the course of requesting a review of the original decision via her representative Mr Tierney, the appellant had raised an entirely different matter: a reference to another room in the property (not the bathroom) which the appellant had stated was used as a therapy room. As mentioned, this had not been referred to in the original application for DPA - it had referenced only a bathroom.

7. The tribunal found it difficult to comprehend why this explanation of the technical issue, connected with the review as identified by the Department, was being offered to the tribunal, but why this issue had not, at the relevant time, been stated to the appellant in clear and unambiguous terms. The appellant was entitled to a clear explanation from the Department concerning the fact that it could not consider different evidence and different issues in the review process. However, this is a matter which is only now being explained, at the tribunal stage, to the appellant. The explanation given to the tribunal by Ms Gibson, on behalf of the Department, was that the review had to be based on the facts of the original decision and the Department could not deal with a review application that is made on the basis of different information and evidence (concerning a therapy room), as opposed to the information concerning a bathroom, with which the original application for DPA has been concerned.
8. It would have been simplicity indeed to have explained all this at the relevant time to the appellant. However, inexplicably, that was not done and confusion thereby arose which could clearly have been avoided. In view of this misguided and confusing approach by the Department, the tribunal entirely understands the apparent frustration of the appellant, which indeed was echoed by her representative at the hearing, concerning why this important information was first communicated to the appellant in the course of a formal tribunal hearing, to the effect that she would need to make a fresh application for DPA in respect of the therapy room. The appellant was adamant that none of this had been explained to her before this point. No explanation for this confusion on the part of the Department and for the failure adequately to communicate was forthcoming. However, the Department's representative, Ms Gibson, did make a position fully clear to the tribunal, albeit somewhat late in the day.
9. Because of the Department's stated position at the hearing, notwithstanding Mr Farrell's request to the tribunal to direct the tribunal's focus to the therapy room and to make a determination concerning whether or not this was a

qualifying facility, the tribunal was obliged to take account of the original application for DPA and of the grounds concerning why this had been rejected by the Department. Considering everything, there is no doubt that if a party seeks a review and then changes the evidential basis upon which it is submitted that any property might potentially qualify for DPA, this fundamentally alters the focus of the determination which is ultimately subject to an appeal to the Valuation Tribunal. The tribunal can only deal with the original application and the review of the original determination which is intrinsically related to the original application. This remains so notwithstanding the lack of clarity and indeed confusion in the subsequent correspondence from the Department. The tribunal therefore intends to determine whether the original rejection of the application for DPA in respect of the bathroom by the Department was correct or not.

10. Turning to another issue in the case, for a moment, it is agreed by the Department that the appellant, who resides alone in the property, meets the relevant criteria, as being a person who has a qualifying disability. Accordingly, once the Department has indicated agreement concerning any appellant meeting the relevant disability criteria, there is no need whatsoever for such an appellant to present medical evidence or information to the tribunal in an endeavour to prove the attainment of the qualifying criteria. The threshold has already been attained and there is no further need to prove anything in that regard to the tribunal. The only issue in this case is whether or not the adaptations made to the single bathroom in the property fulfil the qualifying criteria. It is hoped that this point, concerning medical evidence, will be understood by future appellants to the tribunal: once the Department has conceded that the person has a qualifying disability for the statutory purpose, the only focus shall be upon whether the premises meet or do not meet the statutory criteria. Accordingly, the tribunal's essential focus, in this case, shall be upon the premises, specifically the bathroom.

The Evidence

11. The evidence in this case is relatively straightforward, as far as the necessary focus of the tribunal is concerned. The property has one bathroom which includes a shower, wash hand basin and toilet. This was adapted in 2016 to meet the appellant's needs. The tribunal heard evidence from the appellant but a significant part of this related to the therapy room, which did not fall for consideration in this appeal, for the reasons stated above.

The Facts

12. On the basis of the evidence and information, the tribunal determined, upon the balance of probabilities, the following material facts. These facts may be simply stated for the purposes of this determination. The hereditament under discussion consists of a dwelling house situated at [address redacted by tribunal] located in County Londonderry ("the property"). The appellant is the ratepayer and she lives alone in the property. As mentioned, she has a qualifying disability. Some years ago adaptations were made to the single bathroom in the property. The appellant for the purposes of her application for DPA has referred only to this bathroom and that was the subject of the initial determination by the Department to reject the application. She sought a review but did not seek to present any additional evidence concerning this bathroom which was the subject matter of the original application. Instead as mentioned, she sought to refocus her application using the review procedure to a therapy room.

THE TRIBUNAL'S DECISION

13. This is a case which, as clarified, relates to the appellant's application for DPA concerning a bathroom in the property. In Northern Ireland, the Court of Appeal in 2019 set out a clear statement of the law in ***The Department of Finance v Mary Quinn [2019] NICA 41***. After having conducted a review of the evolution and history of the Northern Ireland statutory provisions and any connection with equivalent legislation in England and Wales, this from paragraph 33 of the judgment of Stephens LJ (as he then was) delivered in the case is helpful:

"[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.”

14. Bearing this guidance in mind concerning the purpose and intent of the legislation, the tribunal's focus must be upon the relatively narrowly-depicted matter identified by the appellant (the bathroom adaptations), however in the all-important statutory context that must be applied to the case by the tribunal.
15. In order to succeed, the appellant is required to satisfy the tribunal that the property has a facility which is required for meeting her needs as a person residing in the premises who has a qualifying disability. Dealing with these matters, there is no additional kitchen, bathroom or lavatory in the premises.
16. In this case there is an adapted bathroom, but no evidence that there is a room which qualifies as being additional; indeed the appellant has not tried to make out that case in her original application for DPA. She has predominantly relied upon proof of her disability (which is not in contention) and the adaptations to a bathroom. The tribunal's unanimous view is that the identified bathroom is not a qualifying facility. 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”*.
17. Whilst the tribunal entirely understands that this determination may be disappointing for the appellant and especially so stemming from the confusion arising from the Department's communications and failure to make the position entirely clear to the appellant, the tribunal is obliged to apply the statutory provisions and the interpretation of the law from such cases which are binding upon the tribunal as **Quinn**. For these reasons, the appeal cannot succeed and consequently the tribunal's unanimous decision is that the appeal is dismissed.

Concluding Remarks

18. It would be helpful, perhaps, to make some concluding remarks. Firstly in view of the obvious confusion which has beset the review process and the failure by the Department to make the Department's position fully clear, until rather late in the day, this being in the course of the Valuation Tribunal hearing, the Department should consider effective training of personnel to ensure that the

possibility of this type of confusion and lack of communication clarity will not reoccur in respect of clearly communicating the Department's position at all times to any applicant for DPA and to any applicant seeking a review. If a fresh application for DPA is needed, that must be explained clearly and unambiguously to any applicant at the time and any technical reasons why this fresh application might be required should also be fully explained. Furthermore, in the particular circumstances of this case, it would be expected that the Department would work closely with the appellant if she seeks to institute a new application for DPA, in order to ensure that any such fresh application is given the utmost priority and is processed towards a decision in the most timely manner possible. What has occurred in this case is regrettable and arrangements ought to ensure there is no reoccurrence.

Signed: *James Leonard*

Mr James Leonard, President

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 20 July 2026