

**NORTHERN IRELAND VALUATION TRIBUNAL
THE HIGH HEDGES ACT (NORTHERN IRELAND) 2011 AND
THE VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007 (AS AMENDED)**

CASE REFERENCE NUMBER: NIVT 2/25

PAULA AND KEVIN TUMILSON – APPELLANT

AND

ARDS AND NORTH DOWN BOROUGH COUNCIL – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Charles O’Neill

Member: Mr Christopher Kenton FRICS

Date of hearing 26 January 2026

DECISION

1. The unanimous decision of the tribunal, for the reasons stated below, is that the Appellant’s appeal against the decision of the Respondent not to issue a remedial notice is not upheld and that the appeal is dismissed by the tribunal without further order.

REASONS

2. This appeal arises from a complaint about what is stated to be a high hedge situated upon property at 44 Prospect Road, Ballygowan (the subject property). The Respondent on foot of a complaint by the Appellant made on the Respondent’s high hedges complaint form, investigated the matter. This included attendance on site to conduct a site survey.
3. The Respondent took measurements and made calculations in accordance with the High Hedges Act (NI) Technical Guidance (the Technical Guidance) issued by the then Department of Environment to establish the action hedge height. Measurements were taken and an initial assessment was made both in relation to the loss of light to the garden and the loss of light to the window.
4. The council issued a decision notice on 16 December 2024 noting that the matter involved a high hedge within the definition in the legislation. It decided that no remedial action was needed, and the Respondent did not issue a remedial notice in relation to the hedge. The council noted that the hedge did not represent a significant

impact on sunlight reaching the Appellant's garden property as the existing wooden fence creates the same effect re shading. It also stated that no formal action would be taken but the council would advise the hedge owner that the overall height of the hedge should not grow greater than 4 metres so that the situation remains manageable and did not adversely impact either party in the future.

5. The Appellant appealed against this decision to this tribunal by notice dated 10 January 2025.

The law

6. The legislation relating to high hedges is set out in the 2011 Act which includes a definition a high hedge as follows:

2(1) in this Act "high hedge" means so much of a barrier to light as-

- (a) Is formed wholly or predominantly by a line of two or more evergreens; and
- (b) Rises to a height of more than two metres above ground level.

(2) For the purposes of subsection (1) a line of evergreens is not to be regarded as forming a barrier to light if the existence of gaps significantly affects its overall effect as such a barrier at heights of more than two metres above ground level.

(3) In this section "evergreen" means an evergreen tree or shrub or a semi-evergreen tree or shrub.

(4) But nothing in this Act applies to trees which are growing on land of 0.2 hectares or more in areas which is forest or woodland.

In section 3 of the 2011 Act the procedure for dealing with complaints is set out:

3—(1) This section has effect where a complaint to which this Act applies—

- (a) is made to the council; and
- (b) is accompanied by such fee (if any) as the council may determine.

(2) If the council considers—

- (a) that the complainant has not taken all reasonable steps to resolve the matters complained of without proceeding by way of such a complaint to the council, or
- (b) that the complaint is frivolous or vexatious, the council may decide that the complaint should not be proceeded with.

(3) If the council does not so decide, it must decide—

- (a) whether the height of the high hedge specified in the complaint is adversely affecting the complainant's reasonable enjoyment of the domestic property so specified; and

(b) if so, what action (if any) should be taken in relation to that hedge, in pursuance of a remedial notice under section 5, with a view to remedying the adverse effect or preventing its recurrence.

(4) If the council decides under subsection (3) that action should be taken as mentioned in paragraph (b) of that subsection, it must as soon as is reasonably practicable—

(a) issue a remedial notice under section 5 implementing its decision;

(b) send a copy of that notice to the following persons, namely—

(i) every complainant; and

(ii) every owner and every occupier of the neighbouring land; and

(c) notify each of those persons of the reasons for its decision.

(5) If the council—

(a) decides that the complaint should not be proceeded with, or

(b) decides either or both of the issues specified in subsection (3) otherwise than in the complainant's favour, it must as soon as is reasonably practicable notify the appropriate person or persons of any such decision and of the council's reasons for it.

(6) For the purposes of subsection (5)—

(a) every complainant is an appropriate person in relation to a decision falling within paragraph (a) or (b) of that subsection; and

(b) every owner and every occupier of the neighbouring land is an appropriate person in relation to a decision falling within paragraph (b) of that subsection.

7. The 2011 Act further provides, in section 7(3) Where the Council decides either or both of the issues specified in section 3(3) otherwise than in the complainant's favour, the complainant may appeal to the Valuation Tribunal against the decision.

8. The Valuation Tribunal Rules provide in 5D

An appeal under section 7(3) of the 2011 Act (where the council decides otherwise than in the complainant's favour), may be made on either of the following grounds –

(a) That the council could not reasonably conclude that the height of the high hedge specified in the complaint is not adversely affecting the complainant's reasonable enjoyment of the domestic property so specified or

(b) That, having concluded that the height of the high hedge specified in the complaint is adversely affecting the complainant's reasonable enjoyment of the domestic property so specified, the council could not reasonably conclude that no action should be taken with a view to remedying that adverse effect or preventing its recurrence.

The evidence before the tribunal

9. The tribunal had before it the case file from the Council and detailed submissions from the Appellant. The tribunal took all these submissions into account in arriving at its decision.
10. The Valuation Member of the tribunal carried out a site inspection and prepared a report for the tribunal.

The Council measurements

11. On foot of the complaint an officer of the Council attended the property and took various measurements of the hedge and the area affected by it. The council found that the hedge was 4 metres from base to the top, the garden was 1.8 metres above ground level. As the actual hedge height was 4 metres the council found that no remedial action was needed.
12. The council also noted that there is a 1.68m wooden fence between the Appellant's property and that of the hedge owner. This is owned by the Appellant. The hedge rises 0.36 to 0.9m above the top of the fence.

The appeal and submissions by the Appellant

13. The Appellant issued a notice of appeal to the Valuation Tribunal dated 10 January 2025. The grounds of appeal set out in the notice are as follows:
 - a. That the council has taken a subjective view that the hedge does not represent a significant barrier to sunlight on the Appellant's property.
 - b. Further the legislation states that the hedge has to be forming a barrier to light. However, the council referred in its decision to a barrier to sunlight.
 - c. The council should not have referred to the fence as having the same effect as the hedge in this case. There are intermittent gaps in the fence. However, there are no gaps in the fence and further that the hedge is 0.9 m higher than the fence.
 - d. The council referred to the privacy of the hedge owner and that the hedge acted as a visual screen which enhanced their enjoyment of the garden. This cannot be used as evidence in these types of cases as there is no reference to this in the legislation.
 - e. There is nothing in the High Hedges Act regarding reducing the hedge to a reasonable height would impact on the hedge owner. Advice, such as that referred to in the decision notice and which the council would give to the hedge owner is not enforceable and is not legally restrictive.

The Respondent's submissions

14. The council submitted that the high hedge was up to 1 metre above the fence and that this was a range rather than a fixed height.
15. Furthermore, the council stated that it followed an assessment process, using professional officers to determine the height of the high hedge in accordance with the guidance and legislation.

16. In relation to privacy being a consideration, amenity can include elements regarding the reasonable enjoyment of the property. The reference to privacy did not indicate a shift in the position of the council but acknowledges the overall context in which the decision was made.
17. The council concluded that the hedge does not create a significant barrier to light.
18. Finally, the council indicated that the advice was proactive measure to attempt to prevent future disputes.

The Valuation Tribunal Member's calculations

19. The Valuation member of the tribunal conducted a site inspection of the property on 23 October 2025. He noted that the hedge consisted of Cupressus x Leyandii (Leyand cypress) above a fence of 1.75m at the rear of the property. He further noted that the height of the hedge is 3.9 metres above ground level, set back from the boundary with the Appellant's property.
The boundary was a concrete retaining wall topped by a timber clad palisade fence of 1.75 metres. The hedge projected less than 1 metre above this.

The area of the garden 88.75 square metres

Length of the hedge 5.9 metres

Effective garden depth 15.04 metres

Orientation factor 0.4

Hedge set back from, boundary 7.10 metres

Action hedge height for the garden 11.12 metres

Windows

Distance from hedge to centre of window 7.1m

Hedge opposite window factor 2

Uncorrected hedge height for windows 4.55m

Height of base of window wall to base of hedge 2.4

Action hedge height for windows 6.95 metres.

20. Therefore, the valuer member of the tribunal found that the action hedge height was that relating to the action hedge height for the windows at 6.95 metres.

The tribunal's consideration of the matter

21. As is prescribed in the legislation the matter was based on written representations, and the matter was listed for hearing on 26 January 2026.
22. A complainant such as the Appellant who does not agree with the decision of a council in relation to a high hedge can appeal to this tribunal.
23. The Valuation Tribunal rules set out specific following grounds of appeal–

- (a) That the council could not reasonably conclude that the height of the high hedge specified in the complaint is not adversely affecting the complainant's reasonable enjoyment of the domestic property so specified or
- (b) That, having concluded that the height of the high hedge specified in the complaint is adversely affecting the complainant's reasonable enjoyment of the domestic property so specified, the council could not reasonably conclude that no action should be taken with a view to remedying that adverse effect or preventing its recurrence.

24. The Appellant in this case refers to the fact that she considers that the council has presented a subjective view that the hedge does not present a significant barrier to sunlight on her property. Also, in its decision the council referred to a barrier to sunlight rather than light.
25. The tribunal notes that the 2011 Act states that a high hedge means so much of a barrier to light as-
- (b) Is formed wholly or predominantly by a line of two or more evergreens; and
 - (b) Rises to a height of more than two metres above ground level.
26. The tribunal, having carefully considered the matter, considers that the hedge is a high hedge for the purposes of the 2011 Act.
27. Reference is made to the council taking into account the Appellant's fence which is at the rear boundary of her property. The tribunal in arriving at its decision has considered the legislation in being required to determine (a) whether the height of the high hedge specified in the complaint is adversely affecting the complainant's reasonable enjoyment of the domestic property so specified; and
- (b) if so, what action (if any) should be taken in relation to that hedge, in pursuance of a remedial notice with a view to remedying the adverse effect or preventing its recurrence. For these purposes it has not taken into account the nature and height of the Appellant's fence.
28. For these purposes the council has taken measurements in relation to the hedge in accordance with the measurements and made calculations in accordance with the High Hedges Act (NI) Technical Guidance (the Technical Guidance) issued by the then Department of Environment to establish the action hedge height in arriving at its decision.
29. The valuation member of the tribunal found that the action hedge height was 6.95 metres. As the hedge is currently 3.9m it is such that the hedge is not adversely affecting the Appellant's reasonable enjoyment of their property.
30. Therefore, taking all relevant matters into consideration the tribunal finds that the grounds on which the council could not reasonably conclude that the height of the high hedge specified in the complaint is not adversely affecting the complainant's reasonable enjoyment of the domestic property so specified are not made out.
31. The council in its decision notice indicated that it was advising the hedge owner that that the hedge overall height should not be more than 4 metres so that the decision remains manageable and does not adversely impact either party in the future.

32. In this case it is clear that the decision notice issued by the council is such that it is not taking any formal action in the form of a remedial notice against the hedge owner. The 2011 Act is clear that a remedial notice issued under section 5 of the 2011 Act may include any preventative action that the council considers must be taken in relation to the hedge at times following the end of the compliance period while the hedge remains on the land. However, this preventive action is subject to a remedial notice having been issued. In this case the decision notice is not to issue a remedial notice. Therefore, any purported advice can only be informative and is not part of the decision of the council.

Conclusion

33. For the reasons stated above, the tribunal is not satisfied that on the evidence in this case the council could not reasonably conclude that the height of the high hedge specified in the complaint is not adversely affecting the complainant's reasonable enjoyment of the domestic property so satisfied.

Chairman: Mr Charles O'Neill

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 23 June 2026