

NORTHERN IRELAND VALUATION TRIBUNAL

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

CASE REFERENCE NUMBER: 12/25

FELICITY HAIRE – APPELLANT

AND

Armagh City Banbridge and Craigavon Borough Council – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Charles O'Neill

Member: Mr Brian Reid FRICS

Date of hearing: 22 May 2026

DECISION

1. The unanimous decision of the tribunal, for the reasons noted below, is that the Appellant's appeal against the issue of a remedial notice dated 30 June 2025 is not upheld and the tribunal orders that the Appellant's appeal in this case be dismissed.

REASONS

Introduction

2. This is an appeal under section 7 of the High Hedges Act (NI) 2011 (the 2011 Act) against a remedial notice issued by Armagh City Banbridge and Craigavon Borough Council (the Respondent) on 30 June 2025.

The background and the complaint

3. This appeal arises from a complaint about what is stated to be a high hedge situated upon property at 295 Kernan Hill Manor, Portadown (the subject property). The owner of the hedge is the Appellant. The Respondent on foot of a complaint by a neighbour (the Complainant) made on the Respondent's high hedge complaints form, investigated the matter and accepted the matter as a high hedge's complaint.
4. In this decision it is not necessary to rehearse the detail of the efforts by the Complainant to seek to address the issues of concern with the hedge owner as the Respondent accepted that the Complainant had taken all reasonable steps to resolve the matters with the hedge owner before the formal complaint was made to the Respondent. Agreement was not reached between the parties, and the Complainant made the complaint to the Respondent.

The action of the Respondent

5. Upon receipt of the complaint the Respondent investigated the matter and attended the site to conduct a site survey.
6. The Respondent took measurements and made calculations in accordance with the High Hedges Act (NI) 2011 Technical Guidance (the Technical Guidance) issued by the then Department of Environment to establish the action hedge height. Reference will be made to the use of this method to establish the action hedge height later in this decision.
7. Measurements were taken by a Council representative, and an assessment was made in relation to the loss of light to the garden and the loss of light to the window. The Respondent found the height of the hedge to be 4.9 metres.

Loss of light to garden		Loss of light to window	
Area of garden	146.35	Closest distance hedge to centre of window	8.4
Effective hedge length	17	Factor for hedge location reference to window	2
Effective garden depth	8.61	Uncorrected hedge height for windows	5.20
Orientation	NW (0.5)	Height of floor above ground	0
Distance boundary and hedge	2.87	Corrected hedge height for windows	5.20
Allowance for slope	-066		
Action hedge height (garden)	3.64	Action hedge height (window)	5.20

8. In accordance with the Technical Guidance the Respondent took into account the lower of the action hedge heights (for garden and window respectively) and this resulted in an action hedge height of 3.64 metres. Reference to these calculations will be made later in this decision.
9. The Respondent also sought the advice of an Arboricultural Consultant, Stephen Warren of M Large Tree Services whose assessment is as follows:

“...The hedge consists of evergreen cherry laurel (*prunus laurocerasus*) with Photinia growing through. These species will recover well from hard pruning and the proposed reduction of 1.3m may be carried out in one operation. A staged reduction is not

considered necessary. The reduction should not be carried out if there are active nests in the hedge which will be more likely in spring...

I would however recommend that the hedge is cut back more than necessary. This will allow the regrowth to thicken by the time it grows to 3.6m producing a better screen and fuller hedge whilst still being within the calculated Action Hedge Height"

10. On foot of its calculations, the Respondent found that the action hedge height to be 3.64 metres and that the height of the hedge in question was adversely affecting the complainant's reasonable enjoyment of their property and issued a remedial notice dated 30 June 2025. The notice required the following action:

- Initial action - Reduce the hedge to a height not exceeding 3.4 metres above ground level
- Preventative action - Maintain the hedge so that at no time does it exceed a height of 3.6 metres above ground level.

11. The notice is dated 30 June 2025, and the notice is stated to take effect on 30 July 2025. The time for compliance with the initial and preventative action is 2 months from the date when the notice takes effect.

The appeal and the submissions

12. The Appellant issued a notice of appeal to the Valuation Tribunal dated 27 July 2025. The grounds of appeal as set out in the notice of appeal are as follows:

- a. The hedge forms part of a long-standing privacy and planning arrangement established by a planning permission instigated by the complainant in this case.
- b. The complainant's property is now sale agreed. Any hedge reduction would alter the established character of the property purchased by the new owners.
- c. In relation to the assessment of light, the Appellant states that no sunlight or shadow- path calculations were carried out to support the assertions of the Respondent.
- d. The hedge is part of a continuous buffer of screening shared by at least seven homes.
- e. The proposed hedge reduction would remove the use of the hedge for privacy and as a windbreak by other owners.
- f. The planning permission granted in 2008 made changes to her property, reducing the permitted decking.
- g. The actions of the complainants prevent the Appellant from practising wellbeing rituals in her garden. These actions infringe her rights under Article 8 of the European Convention on Human Rights and fail to meet the Council's obligations under Section 75 of the Northern Ireland Act 1998 to uphold cultural dignity and freedom from discrimination.
- h. That the Appellant suffers from dangerously low vitamin D levels which explained symptoms such as chronic fatigue and excessive sleeping. The Appellant has to

maintain regular and safe sun exposure. The privacy offered by the current hedge height allows her to follow this advice without compromising her dignity or exposing herself to public or neighbourly view. Cutting of the hedge as proposed in the remedial notice would leave her unable to engage in this prescribed form of therapy without being observed.

- i. The hedge is essential for the use of the Appellants daughter in using the garden for her celebrations, barbecues and downtime. However, she has avoided the garden due to the threats and harassment perpetuated by her neighbours.
- j. The Appellant has maintained the hedge responsibly including trimming the neighbour's side. She also offered to share fence repair costs which were refused.
- k. The Appellant also refers to representatives of the Council entering her property without consent.
- l. Finally, the Appellant asks that the tribunal requires the Council to give full weight to the 2008 Development Control officer's planning report, consider the photographic evidence showing the property without the hedge and the intrusive sightlines that reduction would create, recognise the hedge's ecological and community role as part of the planning context and apply the statutory protections outlined above.

The law

13. 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.

14. 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.

15. The Valuation Tribunal Rules provide rules for the determination of appeals under the 2011 Act. Rule 5B states that an appeal against the issue of a remedial notice may be made on one of the following grounds:

- That the height of the high hedge specified in the remedial notice is not adversely affecting the complainant's reasonable enjoyment of the domestic property so specified
- That the initial action specified in the remedial notice is insufficient to remedy the adverse effect
- That the initial action specified in the remedial notice exceeds what is necessary or appropriate to remedy the adverse effect
- That the period specified in the remedial notice for taking the initial action so specified is not what should reasonably be allowed.

16. As is prescribed in the legislation the matter was based on written representations by the Appellant and the Respondent. The matter was listed for hearing on 22 May 2026.

17. The tribunal had before it the extensive evidence provided by the Appellant and the Respondent and took all this into account in arriving at its decision, notwithstanding that it is not possible to refer extensively in this decision to each and every matter raised by each of the parties.

18. It should also be noted that the Appellant did send into the tribunal office further information relating to her medical condition in the form of a medical certificate which arrived on 25 May 2026. This augmented the representations made on this issue and was taken into account in this instance.

Summary of the Appellant's submissions

19. In this case the Appellant made the following submissions, which for convenience have been grouped together.

20. The complainant's property is now sale agreed. Any hedge reduction would alter the established character of the property purchased by the new owners. The Appellant states that the complainant's property is such that it is not suffering from a lack of sunlight. For instance, it has been advertised as having bright and spacious internal accommodation in sales particulars. The Appellant goes further in saying that the property is now sale agreed and that any hedge reduction would irreversibly alter the established character of the property purchased by a new owner who had full visibility of the hedge's condition and function. She suggests that enforcement should be paused and revoked as the original complainants no longer have an interest in the future of the hedge.

21. In the next submission by the Appellant, she states that the hedge forms part of a long-standing privacy and planning arrangement established by a planning permission granted in 2008 in respect of the subject property. The planning permission was obtained by what appears to be the developer of the subject property, refers to a change in house type (retention of decking) and refers to a condition that requires a landscaping scheme to be planted during the first available planting season along the boundaries of the site. The Appellant states that this was at the behest of the Complainant and that now to invoke the hedge as a nuisance some 16 years after this contradicts the intention and structure of the original planning agreement. Furthermore, she argues that the hedge is part of a continuous buffer of screening shared by at least seven homes and the reduction in the hedge would remove the use of the hedge for privacy.
22. In relation to the assessment of light, the Appellant states that no sunlight or shadow-path calculations were carried out to support the assertions of the Respondent. The Appellant has indicated that the measurements undertaken by the council do not take into account the sunlight path of the subject property on that of the complainant in this case. The Appellant contends that she has maintained a 'sunlight corridor' 5 metres wide cut-through for sunlight which is visible in the estate agent's photos of the Complainant's property. She contends that it is the patio area on the complainant's property along with the range estimates and the sun path and the shadow the subject property casts on the complainant's property is what is causing the shadow not the hedge. The Appellant also submits her qualifications in that she has qualifications in engineering, lighting design and daylight and applications from the RMIT University School of Engineering in Australia.
23. The Appellant further states that the actions of the complainant prevent the Appellant from practising wellbeing rituals in her garden. These actions infringe her rights under Article 8 of the European Convention on Human Rights and fail to meet the Council's obligations under Section 75 of the Northern Ireland Act 1998 to uphold cultural dignity and freedom from discrimination.
24. The Appellant argues that the reduction in the hedge would affect the eco-garden and wildlife habitat. She also refers to coming from Australia and a culture of outdoor living and personal autonomy in one's own space. She considers that the reduction in the hedge would mean that she would be unable to undertake cultural and spiritual practices. The hedge was essential for the use of the Appellants daughter in using the garden for her celebrations, barbecues and downtime. However, she has avoided the garden due to the threats and harassment perpetuated by her neighbours.
25. The Appellant indicates that she suffers from dangerously low vitamin D levels which explain symptoms such as chronic fatigue and excessive sleeping. The Appellant

must maintain regular and safe sun exposure. The privacy offered by the current hedge height allows her to follow this advice without compromising her dignity or exposing herself to public or neighbourly view. Cutting the hedge as proposed in the remedial notice would leave her unable to engage in this prescribed form of therapy without being observed.

26. Finally, the Appellant asks that the tribunal requires the Council to give full weight to the 2008 Development Control officers planning report, consider the photographic evidence showing the property without the hedge and the intrusive sightlines that reduction would create, recognise the hedge's ecological and community role as part of the planning context and apply the statutory protections outlined above.

The Respondent's submissions

27. The Respondent submits that the hedge is a high hedge within the definition in the legislation.
28. It states that it took measurements as required under the High Hedges Act (NI) 2011 Technical Guidance for calculating what height a hedge should be in order not to cause an unreasonable obstruction of light to windows and gardens. It states that no light measurements are required to be taken by this method.
29. In relation to privacy the Respondent states that there is a significant difference in the level between the complainant's dwelling and that of the hedge owner. Further it states that the base of the hedge is above the obstructed garden. It contends that although the reduction of the height of the hedge would mean less privacy for the Appellant at the subject property a height of a hedge of 3.6 metres would be enough to prevent overlooking and so provide a reasonable degree of privacy.
30. The Respondent further indicates that privacy, planning conditions, wildlife and the landscape value form part of the council's ongoing high hedge assessment. There are competing rights of neighbours to enjoy their respective properties.
31. It further states that the boundary fence, erection of the neighbour's patio, encroachment security and anti-social behaviour are not directly related to the impact of the height of the hedge. The Council does not assess these as part of the assessment under the legislation.

The tribunal's consideration of the matter

32. As is prescribed in the legislation, the matter was based on written representations. The matter was listed for hearing on 22 May 2026. The Valuation Member of the tribunal conducted a site visit of the subject property.

33. The first matter to establish is if the trees constitute a hedge within the terms of the 2011 Act. The Remedial Notice refers to a hedge of evergreen cherry laurel with Photinia. The tribunal is satisfied that this constitutes a hedge for the purposes of the legislation. Thereafter it must be decided whether the height of the hedge specified in the complaint is such that it is adversely affecting the complainant's reasonable enjoyment of their property.

34. The second issue is consideration of the method by which the council established that the hedge was such that it is adversely affecting the complainant's reasonable enjoyment of their property. In undertaking this the council conducted measurements in accordance with the guidance set out in the High Hedges Act (NI) 2011 Technical Guidance. The measurements by the council are as set out above.

35. The Valuation Member of the tribunal attended the subject property and carried out his own measurements in accordance with the technical guidance.

Loss of light to garden		Loss of light to window	
Area of garden	158.58	Closest distance hedge to centre of window	8.26
Effective hedge length	18.4	Factor for hedge location reference to window	2
Effective garden depth	8.61	Uncorrected hedge height for windows	5.13
Orientation	0.5	Height of floor above ground	
Distance boundary and hedge	2.87	Corrected hedge height for windows	5.13
Allowance for slope	-0.88		
Action hedge height (garden)	3.42	Action hedge height (window)	5.13

36. The measurements taken by the Valuation Member are largely similar to the measurements of the Council resulting in an action hedge height (the lower of action hedge height for garden and that for windows) of 3.42m opposed to 3.64m as found by the council. In the circumstances of this case therefore the tribunal finds that the calculations are such that the action hedge height as found by the Council is substantially accurate as 3.64 metres.

37. The Appellant has indicated that the measurements undertaken by the council do not take into account the sunlight path of the subject property on that of the Complainant

in this case. She contends that their decking is what is causing shadow on their property. In relation to this aspect the tribunal notes that in all cases concerning high hedges the tribunal has followed the use of the method involved in the technical guidance in considering any complaint relating to a high hedge since the enactment of the legislation. In *Granleese v Belfast City Council* the tribunal stated:

“The use of the “technical guidance” is an intrinsic part of the method used to assess the substance of any complaint made to any Council under the 2011 Act and to address the issue of whether or not a Remedial Notice ought properly to be issued by the relevant Council. The model employed and method of assessment devised in the “technical guidance” takes account of all relevant technical matters and issues which might bear upon the Council’s decision, and it has been carefully devised and constructed in that regard. The “technical guidance” is intended to be read in conjunction with the statutory provision. The tribunal takes due notice of that fact.”

38. In this case the tribunal is persuaded that the approach using the technical guidance is the correct approach rather than any consideration of the sunlight path shadow as put forward by the Appellant.
39. In the submission by the Appellant concerning planning, she refers to a planning permission granted in 2008. This was a planning permission for a change of approved house type (retention of decking). It is for the subject property and was obtained by presumably the developer. The Appellant states that this permission was obtained at the behest of the complainant and was obtained to ensure the privacy of the complainant’s home. There is a condition in the permission which states that during the first available planting season the landscaping scheme shall be planted along the boundaries of the site in accordance with the scheme submitted and approved. In this case some 16 years later the tribunal must consider the effect of the tree in this matter and notes the historic position regarding planning permission but must decide this matter in accordance with the provisions of the 2011 Act at this stage.
40. Furthermore, the Appellant contends that the hedge is part of a continuous buffer of screening shared by at least seven homes and the reduction in the hedge would remove the use of the hedge for privacy. The Council has made it clear in the remedial notice that the hedge affected by the remedial notice relates to the hedge being 17 metres in length.
41. The Appellant argues that as the complainant’s property is now sale agreed that the new purchasers would have been aware of the hedge and that the complainant has no further interest in the hedge as they no longer own the allegedly affected property. The 2011 Act specifically states that a complainant is the person by whom the complaint was made or if that person ceases to be an owner or occupier of the property specified in the complaint the complainant is any one for the time being an owner or occupier of the property.

42. The Appellant contends that a reduction in the hedge would not permit her to have the privacy to undertake wellbeing, cultural and spiritual practices that involve sun exposure, solitude and cultural grounding. She also contends that she is unable to enjoy the social use of the garden due to anti-social behaviour of the complainant. Reducing the hedge would compromise the use of this area further. The Appellant also refers to her daughter not being able to use the garden due to the behaviour of those from the neighbouring garden. The Appellant further contends that the Council has failed to meet its obligations under section 75 of the Northern Ireland Act to uphold cultural dignity and freedom from discrimination. In this regard, the Respondent must decide the case on the basis of the legislation as set out in the 2011 Act. Likewise, the tribunal has to consider the issue in relation to the hedge under the 2011 Act. The tribunal finds no evidence forwarded to it in relation to any alleged breach of section 75 of the Northern Ireland Act.

43. If there is any alleged breach of the criminal law the Appellant should contact the relevant authorities. The tribunal notes that the Respondent states that notwithstanding the reduction in the height of the hedge it would be enough to prevent overlooking and so provide a reasonable degree of privacy.

44. The Appellant indicates that she suffers from dangerously low vitamin D levels which explained symptoms such as chronic fatigue and excessive sleeping. The Appellant has to maintain regular and safe sun exposure. The privacy offered by the current hedge height allows her to follow this advice without compromising her dignity or exposing herself to public or neighbourly view. Cutting the hedge as proposed in the remedial notice would leave her unable to engage in this prescribed form of therapy without being observed. However, notwithstanding the reduction in the height of the hedge the tribunal would be of the view that there will be privacy in the use of her garden. Furthermore, there are alternative ways in which the Appellant may obtain safe sun exposure.

45. Overall, the Appellant refers in general to her rights under Article 1 of the First Protocol to the European Convention on Human Rights. Article 1 provides

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law”.

46. In *Granleese v Belfast City Council* in the High Court, a case concerning a high hedge and the 2011 Act Coulton J stated:

“It is arguable that the impugned decision in this case comes within the scope of the applicant’s rights under A1P1. Therefore, any interference with those rights must be justified in law.

Applying the usual structure of analysis of questions arising in relation to Convention Rights the following is clear from the analysis above:

Any restriction of the applicant's rights is prescribed by law in the form of the 2011 Act.

The restriction pursues a legitimate aim including the protection of the rights of the complainant...

Is the restriction imposed by the impugned decision proportionate?

For the reasons set out above the court concludes that the restriction imposed on the applicant meets the threshold of proportionality. The protection of the rights of have been carefully weighed in the decision, there is a connection between the means chosen and the protection of his rights and the decision maker has adopted the least restrictive means available to protect those rights.

The decision made has fairly and lawfully applied the wishes of the legislature expressed in the 2011 Act."

47. Therefore, in accordance with the decision of the High Court in *Granleese v Belfast City Council* the tribunal in this case finds that the restriction imposed on the Applicant meets the threshold of proportionality.

48. Taking into account all the detailed submissions by the respective parties in this case made by both the Appellant and the Respondent and taking into account all the evidence before it the tribunal finds that the corrected hedge height of the hedge in this case amounts to 3.64 metres. As the hedge is now substantially higher than this, action must be taken in relation to the hedge. The tribunal therefore dismisses the appeal. In accordance with the 2011 Act the operative date of the Remedial notice issued by the Council shall be the date of this decision and the compliance period shall accordingly run from this date. The other requirements of the remedial notice must be complied with.

Signed: Charles O'Neill, Chairman

Northern Ireland Valuation Tribunal

Date decision recorded in the register and issued to the parties: 16 September 2026