

**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 3/25

DAVID & RUTH RICHARDSON – 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: 10 July 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 20 January 2025 is partially upheld and that the remedial notice attached to this decision issue as varied by the terms contained therein.

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 20 January 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 7 Clare Moss Road, Waringstown (the subject property). The owners of the hedge are the Appellants. 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) Technical Guidance (the Technical Guidance) issued by the then Department of Environment to establish the action hedge height. Measurements were taken 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 12.5 metres.

Loss of light to garden		Loss of light to window	
Area of garden	419.8	Closest distance hedge to centre of window	11.66
Effective hedge length	42.6	Factor for hedge location reference to window	2
Effective garden depth	9.85		
Orientation	0.55	Height of floor above ground	0
Distance boundary and hedge	2.4m		
Allowance for slope	0		
Action hedge height (garden)	7.8m	Action hedge height (window)	6.83m

7. 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 6.83m. reference to these calculations will be made later in this decision.

8. The Respondent also sought the services of M Large Tree Services who prepared a tree survey report for the subject property. The survey was carried out by Stephen Warren on 6 June 2024. Its stated terms of reference were to survey and produce a report on the health and condition of the trees forming a hedge growing on the above site, to make recommendations for hedge reduction in accordance with the High Hedges legislation, and that would not lead to the death or destruction of the hedge, to provide photographic record of the trees on the site. This report noted as follows:

“The Action Hedge Height” has been calculated as 6.83m. As the trees are approximately 12.5m high at present, it is advised that they are reduced to 9.4m to allow recovery. For the “Action Hedge Height” to be achieved, the trees will need to be reduced in stages over a period of years.... It is recommended that the trees are reduced to the “Action Hedge Height” over a period of three years. The initial reduction in height should be a maximum of 3m. A secondary reduction may then be carried out the following year to the “Action Hedge Height”

Finally, it was noted on the day of inspection that there were pigeons in the crowns of the trees. Nests were not visible, but bird activity should be considered when scheduling any tree works. If bird activity or nest are discovered in the trees, all work should cease. Ideally, all tree works should be outwith bird nesting season (1 March to 31 August).”

9. On foot of its calculations and the report mentioned above, the Respondent found that the action hedge height to be 6.83m and the Respondent found 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 20 January 2025. The notice required the following initial action
 - Initially reduce the hedge by 3 metres by the 30 September 2025
 - The hedge must then be reduced to a height not exceeding the action hedge height of 6.83 metres by the 17 February 2028.

10. In relation to preventative action, the council stated that regardless of whether the hedge is reduced in one operation or over a period of years, it is advised that the overhanging lateral branches are pruned regularly. This will be necessary as lateral growth is likely to increase exponentially when the primary stems of the trees are cut. Side branches should be cut at the same time as the initial height reduction, and then twice a year from then on. It is important to cut these branches often, but by small amounts. If they are pruned back excessively, exposing bare wood, they will not recover and regenerate new shoots.

11. The notice was stated to take effect on 17 February 2025.

The appeal and the submissions

12. The Appellant issued a notice of appeal to the Valuation Tribunal dated 12 February 2025. The grounds of appeal set out in the notice of appeal to the tribunal were as follows:

- (a) That the Respondent is applying the High Hedges Act to deciduous trees;
- (b) The presence of bats in the trees;
- (c) That the works go too far and would likely lead to the death or destruction of the hedge;
- (d) That the complainant has no notable loss of light between 10am and sundown due to the trajectory of the sun;
- (e) That the Respondent has used the technical guidance to calculate the height the trees should be and has not assessed them on their merit as pertaining to height – one size does not fit all.

The Law

13. The legislation relating to high hedges is set out in the 2011 Act which includes a definition of 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 area which is forest or woodland.

5 —(1) For the purposes of this Act a remedial notice is a notice—

(a) issued by the council in respect of a complaint to which this Act applies; and

(b) stating the matters mentioned in subsection (2).

(2) Those matters are—

(a) that a complaint has been made to the council under this Act about a high hedge specified in the notice which is situated on land so specified;

(b) that the council has decided that the height of that hedge is adversely affecting the complainant's reasonable enjoyment of the domestic property specified in the notice;

(c) the initial action that must be taken in relation to that hedge before the end of the compliance period;

(d) any preventative action that the council considers must be taken in relation to that hedge at times following the end of that period while the hedge remains on the land; and

(e) the consequences under sections 10 and 12 of a failure to comply with the notice.

(3) The action specified in a remedial notice is not to require or involve—

(a) a reduction in the height of the hedge to less than two metres above ground level; or

(b) the removal of the hedge.

(4) A remedial notice shall take effect on its operative date.

(5) “The operative date” of a remedial notice is such date (falling at least 28 days after that on which the notice is issued) as is specified in the notice as the date on which it is to take effect.

(6) “The compliance period” in the case of a remedial notice is such reasonable period as is specified in the notice for the purposes of subsection (2)(c) as the period within which the action so specified is to be taken; and that period shall begin with the operative date of the notice.

(7) Subsections (4) to (6) have effect in relation to a remedial notice subject to—

(a) the exercise of any power of the council under section 6; and

(b) the operation of sections 7 to 8 in relation to the notice.

(8) While a remedial notice has effect, the notice—

(a) shall be a statutory charge; and

(b) shall be binding on every person who is for the time being an owner or occupier of the land specified in the notice as the land where the hedge in question is situated.

(9) In this Act—

“initial action” means remedial action or preventative action, or both;

“remedial action” means action to remedy the adverse effect of the height of the hedge on the complainant's reasonable enjoyment of the domestic property in respect of which the complaint was made; and

“preventative action” means action to prevent the recurrence of the adverse effect.

14. The Valuation Tribunal Rules (NI) 2007 (‘the Rules’), as amended by the Valuation Tribunal (Amendment) Rules (NI) 2012 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:

(a) 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;

(b) That the initial action specified in the remedial notice is insufficient to remedy the adverse effect;

(c) That the initial action specified in the remedial notice exceeds what is necessary or appropriate to remedy the adverse effect;

(d) That the period specified in the remedial notice for taking the initial action so specified is not what should reasonably be allowed.

15. 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 10 July 2026.

16. The tribunal had before it the notice of appeal to the tribunal, a presentation of evidence by the Respondent and correspondence between the parties. The tribunal wishes to thank all the parties for their detailed submissions. It is not possible to refer to every point made in this case, but all the submissions of the parties were taken into account in arriving at this decision.

The Valuation Member's measurements

17. The Valuation Member of the tribunal attended the subject property and made the following observations in respect of calculating the action hedge height. He noted the height of the hedge to be 16.41 metres.

Loss of light to garden		Loss of light to window	
Area of garden	542	Closest distance hedge to centre of window	7.86
Effective hedge length	43	Factor for hedge location reference to window	1.5
Effective garden depth	12.6		
Orientation	0.55	Height of floor above ground	0
Distance boundary and hedge	2.25		
Allowance for slope	0		
Action hedge height (garden)	9.18m	Action hedge height (window)	6.24m

18. The Valuation Member therefore noted, in accordance with the High Hedges Act (Northern Ireland) 2011 Technical Guidance that the action hedge height is 6.24 metres compared to the Respondent's calculation of 6.83 metres.

The Appellant's submissions

- (a) The Appellant submits that the Respondent is applying the High Hedges Act to deciduous trees.
- (b) The Appellants state that bats are observed flying into the trees at dusk from May onwards. They are very vocal and use the evergreen trees as a foraging area due to midge like flies which swarm around this low lying area which sits in a flood

plain. The Appellants refer to a bat survey which they had completed a few years ago. They admit that the trees were not included in this survey, which was undertaken in May 2021. This survey was carried out in relation to an application for outline planning permission for a site for a dwelling 25 metres south east of 7 Claire Moss Road and adjacent to Nos 5 and 7 Claire Moss Road.

19. The Appellants state that they would commission the same persons to complete another report on the trees in question but for the fact that this would have to be done in late spring/early summer when they could observe the bats. Also it would be a very costly report. The Appellants also refer to a video of the bats which was sent to the tribunal and commented upon by the Respondent.
20. The Appellants also state that they have spoken to an unnamed official in the Department of Agriculture, Environment and Rural Affairs and he stated that the order was not in the spirit of the legislation and that councils must consider the potential for bats to roost/forage in trees. Reference was also made to consideration of biodiversity which had to be taken into account in relation to European legislation.
21. The Appellants indicate that the official stated that the council had not demonstrated that there is no roosting or hibernating of bats in the trees and their generalisation in relation to bats in the trees may not hold up.
22. The Appellants state that the action in the Remedial Notice would cause the death of the trees. They indicate that they have commissioned two tree surgeons who have completed a site visit and to reduce the trees by one half or more would cause their death and destruction. They said that they would not be willing to carry out the work.
23. The Appellants contend that the complainant has no notable loss of light between 10am and sundown apart from the shade from their own property even in winter, due to the trajectory of the sun which they enjoy facing all day then moving round to the opposite side of their property and the trees as the evening progresses. Geographically all the shade from the trees falls naturally on the subject property again due to the trajectory of the sun.

24. The Appellant also considers that the use of the Technical Guidance does not assess the hedge completely as it merits pertaining to light – one size does not fit all.

The Respondent's submissions

25. The Respondent states that the hedge the subject of the complaint consists of approximately 24 trees which are predominantly evergreen (Leylandii Cypress) with occasional deciduous trees.

26. In relation to the issue of bats being in the hedge, in the letter sent with the Remedial Notice the Respondent states that it has considered the concerns regarding bats in the trees and the potential that bats have been observed on multiple occasions.

27. The Respondent states that in the video of the trees submitted by the Appellants bats could not be seen. There was no evidence of protected or rare bird species. The Respondent also states that it consulted its conservation officer who advised that deciduous trees would not host bats. As the trees are being lowered and not removed its should not affect foraging bats.

28. In relation to the issue that the reduction of the height in the remedial notice would cause the death of the trees, the Respondent states that the trees need to be reduced in stages over a period of years. A reduction of one third of the height needs to be undertaken over a period of time.

29. In relation to the calculation of the action hedge height the Respondent states that it has factored in its trajectory by applying the relevant orientation factor to the high hedge calculations.

The tribunal's consideration of the matter

30. The tribunal has considered carefully the representations made by the Appellants and the Respondent. The tribunal finds that the line of trees is comprised of evergreen trees with others interspersed. Therefore, the trees form a line formed wholly or

predominantly of two or more evergreens. Therefore, this constitutes a high hedge for the purposes of section 2 of the 2011 Act.

31. In relation to this case, there has been reference to the alleged presence or otherwise of bats in the hedge. The Appellant states that there are bats roosting or foraging in the hedge. She has provided a video purporting to show this.
32. However, the Appellants have not provided any report from any third party confirming the presence of bats. Indeed, they confirm that the report they have submitted to the Respondent did not cover the trees the subject of this case. The Appellants refer to conversations with various persons, but no report has been submitted.
33. As against this the Respondent has issued a remedial notice taking into account the submissions about the presence of bats in the trees. The council has also taken account of advice given by its conservation officer.
34. On balance therefore in this case the tribunal is not persuaded that there is the evidence of presence of bats such that the Appellant would not have to comply with the requirements to reduce the height of the hedge to the required level.
35. In relation to the submissions about the health of the hedge, the tribunal is aware that it is not possible to require the removal of the hedge. However, in this case there is evidence from the Arboriculturist that the hedge should be reduced over a period of time to allow recovery. Secondary reduction is required. It is stated that the hedge should be reduced to 9.4 metres to allow recovery.
36. Finally in relation to the submissions in respect of the calculations carried out by the Respondent in this case, the Respondent and the tribunal have carried out the calculations in accordance with the Technical Guidance and therefore the tribunal finds no issue with the methodology of the calculations carried out by the Respondent.

37. The tribunal however concludes that the action hedge height of the hedge is 6.24 metres rather than 6.83 as found by the Respondent.

38. Therefore, the tribunal will amend the Remedial notice issued by the Respondent to reflect this. The Remedial notice will require the hedge to be reduced to 6.24 metres. However, this notice will require the reduction of the hedge to be carried out in stages. It will require the hedge to be reduced to 9.4 metres by 30 November 2026 and to 6 metres by 17 February 2029 to allow a growing margin so that the hedge will not be more than 6.24 metres.

39. As the tribunal is permitted by the 2011 Act, section 8(20(a)), to vary the requirements of a Remedial Notice under these circumstances the tribunal orders as follows in respect of the Remedial Notice (which is otherwise valid and subsisting, save as herein varied):

The date of the Remedial Notice shall be 16 September 2026.

3. INITIAL ACTION

The Tribunal requires the following steps to be taken in relation to the hedge specified in paragraph 2 of the Remedial Notice before the end of the period specified in paragraph 4 below:

INFORMATIVE

Following the end of the period specified in paragraph 4 below It is recommended that the hedge is cut back annually to a height of 6.24 metres.

4. TIME FOR COMPLIANCE

- I. Initially reduce the hedge to 9.4 metres by 30 November 2026 and
- II. Reduce the hedge to 6 metres by 17 February 2029 to allow a growing margin so that the hedge will not be more than 6.24 metres.

WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 16 September 2026.

Date of amended Remedial Notice 16 September 2026.

40. With these stated amendments made to the original Remedial Notice and deemed to be incorporated therein as a consequence of the Order of the Tribunal in this decision this disposes of the appeal and the tribunal orders accordingly.

Signed: Mr Charles O'Neill, Chairman

Northern Ireland Valuation Tribunal

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