R v Birmingham CC ex p Taj Mohammed

Queen's Bench Division
Dyson J
12 June 1998

Save to the extent that they are expressly authorised or required by the Housing Grants, Construction and Regeneration Act 1996 to have regard to resources considerations, local housing authorities are not entitled to take resources into account in deciding whether or not to approve a disabled facilities grant for purposes under Housing Grants, Construction and Regeneration Act 1996 s23(1).

Facts

The applicant, Mr Mohammed, suffered from arthritis, anxiety and depression. His case, supported by an occupational therapist's report, was that his health would benefit from the provision at his home of facilities such as central heating, insulation and draught-free windows. Therefore, he applied to the respondent housing authority for a disabled facilities grant, under Housing Grants, Construction and Regeneration Act 1996 (HGCRA) ss2 and 23(1). The housing authority's criteria in the case of grants for heating equipment were that:

a) the applicant received home kidney dialysis and his/her treatment room was inadequately heated; or
b) the applicant had a medical condition requiring a constant temperature for 24 hours of the day and the existing heating system could not achieve this; or
c) the applicant had been assessed as requiring extended bedroom or bathroom facilities, which also needed heating.

The housing authority rejected Mr Mohammed's application on the ground that he did not meet such criteria and Mr Mohammed commenced judicial review proceedings. Before the final hearing, the housing authority conceded that it had failed to exercise its discretion in relation to Mr Mohammed's application individually. It then conceded that its criteria were unlawfully rigid in the context of the statutory scheme but indicated that when it adopted replacement criteria and/or made a further decision in relation to Mr Mohammed it would do so on the basis that it was obliged, alternatively entitled, to have regard to its financial resources.

Held:

1 Giving words their ordinary meaning and reading them in the context of the HGCRA 1996 as a whole and against the background of previous legislation, save to the extent that they are expressly authorised or required to do so by the HGCRA 1996, local housing authorities are not entitled to have regard to their resources in determining whether or not to approve an application for a disabled facilities grant for purposes within HGCRA 1996 s23(1).

2 Local housing authorities are required to decide whether the proposed works will achieve a purpose which comes within HGCRA 1996 s23(1). If the proposed works do, then, subject to other relevant provisions, the authority must approve the disabled facilities grant. The question whether works will achieve a purpose which comes within s23(1) falls to be determined objectively, having regard to the nature of the applicant's needs and the proposed works. The overriding purpose of the disabled facilities grant is to make the dwelling or building suitable for the accommodation, welfare or employment of the disabled occupant.

3 HGCRA 1996 s24(3)(a) provides that a local housing authority shall not approve an application for a disabled facilities grant unless it is satisfied that 'the relevant works are necessary and appropriate to meet the needs of the disabled occupant'. This provision is directed to considerations of a technical nature, in relation to which there is express provision for the social services authority to provide advice, and was not intended to require or permit authorities to have regard to their financial resources: *R v Gloucestershire CC and Secretary of State for Health ex p Barry* (1997) 1 CCLR 40, HL, distinguished; *In re T (A Minor)* (1998) 1 CCLR 352, HL, followed.

Cases referred to in judgment:

R v Gloucestershire CC and Secretary of State for Health ex p Barry (1997) 1 CCLR 40; [1997] 2 All ER 1; [1997] 2 WLR 459, HL.

In re T (A Minor) (1998) 1 CCLR 352; sub nom *R v East Sussex CC ex p Tandy* [1998] 2 All ER 769; (1998) *Times*, 21 May, HL.

Legislation/guidance referred to in judgment:

Chronically Sick and Disabled Persons Act 1970 s2 – Education Act 1993 s298 – Housing Grants, Construction and Regeneration Act 1996 ss2, 23, 24, 30, 31, 33, 36 and 100 – Local Government and Housing Act 1989 Part VIII.

This case also reported at:

Not elsewhere reported.

Representation

S Knafler (instructed by McGrath & Co) appeared on behalf of the applicant.

C Baker (instructed by Birmingham City Council) appeared on behalf of the respondent.

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Judgment

MR JUSTICE DYSON:

Introduction

The applicant made an application to the Respondent for a disabled facilities grant ('DFG'), which it is agreed that, for the purposes of this judgment, should be treated as having been made under section 2 of the Housing Grants, Construction and Regeneration Act 1996 ('the 1996 Act'). It is also agreed that the applicant is 'disabled' within the meaning of section 100 of the 1996 Act.

The basis of his application was that he suffered from arthritis, anxiety and depression, and his case (which was supported by an occupational therapist's report) was that his health would benefit from the provision at his home of facilities such as central heating, insulation and draught-free windows. On 15 April 1997, the respondent's Housing Department refused his application on the grounds that he did not meet the criteria which the respondent had adopted for determining an application for a DFG. The criteria in the case of a grant for heating equipment were that the applicant must:

(a) Receive home kidney dialysis and his/her treatment room is inadequately heated, or

(b) have a medical condition which makes it necessary for him/her to be in a constant temperature 24 hours per day and existing heating is unable to maintain this . . . or

(c) have been assessed by Social Services as requiring extended bedroom/bathroom facilities in his or her home, which also require heating.

Judicial review proceedings were instituted by the applicant. By its letter dated 9 April 1998 the respondent agreed to reconsider its previous determination. Moreover, on 27 May 1998, it conceded that its existing policy in relation to DFGs was invalid, because its criteria were unlawfully rigid in the context of the statutory scheme. The respondent has not yet made a further decision. It has indicated that, when it makes this decision, it will do so on the basis that it is obliged, or alternatively entitled, to have regard to its financial resources in determining the application.

On behalf of the applicant, Mr Knafler submits that the respondent's financial resources are irrelevant to the question whether the applicant is entitled to a DFG. He urges me to rule on the resources issue, even though it is possible that the respondent will allow the applicant's claim for DFG in full in any event. The respondent does not object to my deciding the point. Since both Counsel have prepared submissions on the issue, and a decision on it may well be of utility to the parties to these proceedings, and it is a point of considerable general importance to the respondent and other local housing authorities, I propose to decide it.

As a matter of form, it will be necessary for the applicant to amend his Form 86A to claim a declaration that the respondent is not entitled to have regard to its resources in determining whether or not to approve an application for a DFG for purposes within section 23(1) of the 1996 Act. I grant him leave to amend.

Sections 23 and 24 of the 1996 Act

These are the central provisions of the 1996 Act. They provide as follows:

23.–(1) The purposes for which an application for a disabled facilities grant must be approved, subject to the provisions of this Chapter, are the following–

(a) facilitating access by the disabled occupant to and from the dwelling or the building in which the dwelling or, as the case may be, flat is situated;

(b) making the dwelling or building safe for the disabled occupant and other persons residing with him;

(c) facilitating access by the disabled occupant to a room used or usable as the principal family room;

(d) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room used or usable for sleeping;

(e) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a lavatory, or facilitating the use by the disabled occupant of such a facility;

(f) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a bath or shower (or both), or facilitating the use by the disabled occupant of such a facility;

(g) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a washhand basin, or facilitating the use by the disabled occupant of such a facility;

(h) facilitating the preparation and cooking of food by the disabled occupant;

(i) improving any heating system in the dwelling to meet the needs of the disabled occupant or, if there is no existing heating system in the dwelling or any such system is unsuitable for use by the disabled occupant, providing a heating system suitable to meet his needs;

(j) facilitating the use by the disabled occupant of a source of power, light or heat by altering the position of one or more means of access to or control of that source or by providing additional means of control;

(k) facilitating access and movement by the disabled occupant around the dwelling in order to enable him to care for a person who is normally resident in the dwelling and is in need of such care;

(l) such other purposes as may be specified by order of the Secretary of State.

(2) An application for a disabled facilities grant may be approved, subject to the provisions of this Chapter, for the purpose of making the dwelling or building suitable for the accommodation, welfare or employment of the disabled occupant in any other respect.

(3) If in the opinion of the local housing authority the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in subsection (1) or the purpose mentioned in subsection (2), they may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to or, as the case may be, include such works as seem to the authority to be necessary for that purpose.

24.–(1) The local housing authority –

(a) shall approve an application for a disabled facilities grant for purposes within section 23(1), and

(b) may if they think fit approve an application for a disabled facilities grant not for a purpose within that provision but for the purpose specified in section 23(2),

subject to the following provisions.

(2) Where an authority entertain an owner's application for a disabled facilities grant made by a person who proposes to acquire a qualifying owner's interest, they shall not approve the application until they are satisfied that he has done so.

(3) A local housing authority shall not approve an application for a disabled facilities grant unless they are satisfied –

(a) that the relevant works are necessary and appropriate to meet the needs of the disabled occupant, and

(b) that it is reasonable and practicable to carry out the relevant works having regard to the age and condition of the dwelling or building.

In considering the matters mentioned in paragraph (a) a local housing authority which is not itself a social services authority shall consult the social services authority.

(4) An authority proposing to approve an application for a disabled facilities grant shall consider–

(a) in the case of an application in respect of works to a dwelling, whether the dwelling is fit for human habitation;

(b) in the case of a common parts application, whether the building meets the requirements in section 604(2) of the Housing Act 1985,

and the authority shall take that into account in deciding whether it is reasonable and practicable to carry out the relevant works.

Other Relevant Provisions

Mr Knafler relies on other provisions as showing that the draftsman of the 1996 Act was alive to the issue of available resources. Section 30 provides for means testing in the case of an application by an owner-occupier or tenant. Section 31 contains, in the case of a landlord's application, special provisions for the determination of the amount of the grant by the local housing authority, having regard to the extent to which the landlord is able to charge a higher rent for the premises because of the works, and such other matters as the Secretary of State may direct. Section 33 gives the Secretary of State power to specify the maximum

amount of grant, including, in the case of a section 23(1) DFG, the power to authorise the local housing authority, if they think fit, to pay a further amount in excess of the maximum stipulated by the Secretary of State. Section 36 empowers a local housing authority to approve a section 23(1) DFG, on terms that payment of the grant, or part of it, will not be made before a certain date.

Interpretation of Sections 23 and 24

I

The background to the relevant provisions of the 1996 Act is important. Prior to 1996, the statutory codes for grants in respect of housing works ('renovation grants', 'common parts grants', 'DFGs' and 'HMO grants') were to be found in Part VIII of the Local Government and Housing Act 1989. Under the 1989 Act, in certain cases, approval of all four types of grant was mandatory. The 1996 Act made all grants discretionary, save for DFGs. DFGs retained their mandatory status if they related to purposes within section 23(1) of the 1996 Act: note section 23(1) 'must be approved', and section 24(1)(a) 'shall approve'. If the grant was for the purpose of making the dwelling or building suitable for the disabled occupant in any respect other than that specified in section 23(1), then it became discretionary: note section 23(2) 'may be approved', and section 24 (1)(b) 'may if they think fit approve'.

It is not in issue that, in deciding whether or not to approve a discretionary grant, a local housing authority is entitled to take its available financial resources into account. At first sight, therefore, the fact that, when enacting the 1996 Act, Parliament decided to retain mandatory status only for section 23(1) DFGs lends strong support to the argument that available resources are irrelevant to the determination of applications for such grants. Why else change the status of most of the grants, if it was not to permit local housing authorities to have regard to their resources in relation to them, and (by inference) not to do so in relation to grants which continued to be mandatory? Why else take the trouble to provide that DFGs for purposes within section 23(1) be mandatory, and those for other purposes be discretionary?

II

The statutory history, and the contrasting treatment accorded by Parliament to section 23(1) DFGs on the one hand, and the remaining grants on the other hand, whilst not conclusive, do suggest that Parliament intended that the availability of financial resources should be irrelevant to the decision whether or not to approve DFGs for purposes within section 23(1).

A further indication that this is what Parliament intended is the fact that the draftsman of the 1996 Act was alive to the issue of financial resources, and yet did not expressly provide that resources should be taken into consideration by an authority when deciding whether the relevant works were 'necessary and appropriate to meet the needs of the disabled occupant'. The various provisions to which I have earlier referred show that Parliament was aware of the financial constraints under which local housing authorities operate. Each of these provisions was designed to reduce the financial burden of making grants. I accept, however, that the significance of this should not be overstated, because, for the most part, they apply not only in the case of mandatory section 23(1) DFGs, but discretionary grants as well. As I have already said, it is common ground that local housing authorities are entitled to have regard to their financial resources when deciding whether or not to approve discretionary grants.

A Another pointer as to what Parliament intended is to be found in section 24(3)(b) and (4). These provisions were inserted to make it clear that, even if the relevant works were necessary and appropriate to meet the needs of the disabled occupant, the authority was neither obliged nor entitled to approve an application for a DFG, unless it was reasonable and practicable to carry out the work, B having regard to the age and condition of the dwelling or building, and unless, in the case of a dwelling, the authority had taken into account whether the dwelling was fit for human habitation. No doubt, the reason for these conditions was an appreciation of the fact that it was not a sensible use of resources to make a DFG to improve an old, dilapidated building, or a dwelling which was not fit for human C habitation.

The fact that Parliament saw fit to introduce section 24(3) and (4) suggests that, but for their introduction, an authority would have been obliged (regardless of resource considerations) to approve a DFG, if satisfied that the relevant works were necessary and appropriate to meet section 23(1) needs. The express refer- D ence to resource-related considerations in section 24(3)(b) strongly suggests that those considerations do not fall to be taken into account in determining whether the relevant works are 'necessary and appropriate to meet the needs of the disabled occupant' within the meaning of section 24(3)(a). Further support for this view comes from the fact that section 24(3) enjoins a local housing authority E which is not itself a social services authority to consult the social services authority in considering the matters mentioned in paragraph (a). The social services authority can advise as to the applicant's needs, whether he or she has a need for any of the facilities mentioned in section 23(1) and whether the works proposed by the applicant are necessary and appropriate, if that need is to be satisfied. One F would not expect the social services authority to advise on the question whether the local housing authority should apply its financial resources to approve the section 23(1) DFG at all.

III

G In the interpretation of sections 23 and 24, it is important to give words their ordinary meaning, and read them in the context of the 1996 Act as a whole and against the background of the previous legislation. In my opinion, save to the extent that they are expressly authorised or required to do so by the 1996 Act, local housing authorities are not entitled to have regard to their resources in determin- H ing whether or not to approve an application for a DFG for purposes within section 23(1) of the Act.

Authorities are required to decide whether the purpose which the works described in the application is intended to achieve will be achieved by those works, and whether that purpose comes within section 23(1). If it does, then, I subject to section 24(3) and (4) and any of the other resource-related provisions that are relevant, the authority must approve the DFG. The question whether the purpose will be achieved by the relevant works, and whether that purpose comes within section 23(1) falls to be determined objectively, having regard to the nature of the applicant's needs and the proposed works. The overriding purpose of the J DFG is to make the dwelling or building suitable for the accommodation, welfare or employment of the disabled occupant: see section 23(2), and in particular the concluding words 'in any *other* respect' (my emphasis) .

In my view, there is no room in the statutory language (beyond what is expressly provided) for resources to play a part in determining whether the pro- K posed works are necessary or appropriate to achieve the purpose or purposes, which the applicant asserts will be achieved by his or her application. Section

24(1) does not advance the respondent's argument. It reinforces the language of obligation found in the opening words of section 23(1). Mr Baker's argument centres (as it must) on section 24(3)(a) . He submits that the requirement that the authority be satisfied that the relevant works are 'necessary and appropriate to meet the needs of the disabled occupant' means that the authority must, or at least may, have regard to its financial resources in deciding whether the works are necessary and appropriate.

I have already given a number of reasons why I consider that these words do not bear this meaning. In my view, section 24(3)(a) is directed to a consideration of a technical question, namely whether the relevant works are necessary and appropriate to meet the applicant's needs.

The Authorities

There is no previous decision on the issue which I have to determine. The question whether resources are relevant in determining the nature and scope of local authority statutory duties has been the subject of decision in other statutory contexts. Although I am conscious of the dangers of comparing decisions on different statutes, I must refer to two recent decisions of the House of Lords.

The first is *R v Gloucestershire County Council ex parte Barry* [1997] AC 584; (1997) 1 CCLR 40. That case concerned section 2(1) of the Chronically Sick and Disabled Persons Act 1970 which, so far as relevant, provides as follows:

> *2.–(1) Where a local authority having functions under section 29 of the National Assistance Act 1948 are satisfied in the case of any person to whom that section applies who is ordinarily resident in their area that it is necessary in order to meet the needs of that person for that authority to make arrangements for all or any of the following matters, namely [(a)–(h)]*
> *then . . . it shall be the duty of that authority to make those arrangements in exercise of their functions under the said section 29.*

The matters referred to in paragraphs (a)–(h) of section 2(1) were as follows:

- *(a) the provision of practical assistance for that person in his home;*
- *(b) the provision for that person of, or assistance to that person in obtaining, wireless, television, library or similar recreational facilities;*
- *(c) the provision for that person of lectures, games, outings or other recreational facilities . . .*
- *(d) the provision for that person of facilities for, or assistance in, travelling to and from his home for the purpose of . . .*
- *(e) the provision of assistance for that person in arranging for the carrying out of any works of adaptation in his home or the provision of any additional facilities designed to secure his greater safety, comfort or convenience;*
- *(f) facilitating the taking of holidays by that person . . .*
- *(g) the provision of meals for that person whether in his home or elsewhere;*
- *(h) the provision for that person of, or assistance for that person in obtaining, a telephone . . .*

The applicant in that case was disabled, and had been in receipt of home care for shopping, pension, laundry, cleaning and meals on wheels. He was then told that the provision of cleaning and laundry would be withdrawn because the local authority had insufficient resources. The House of Lords held by a majority that it was lawful for the local authority, in deciding what was necessary to meet the needs of the applicant, to take into account the scarcity of the resources available to it. The second House of Lords decision is *R v East Sussex County Council ex*

parte Tandy [1998] 2 All ER 769; sub nom *In re T (A Minor)* (1998) 1 CCLR 355. Lord Browne-Wilkinson gave the leading speech. At p776B [(1998) 1 CCLR 355 at p359F], he explained *ex parte Barry* in the following terms:

> *The question in* Barry *related to the questions what were the 'needs' of the disabled person and whether it was 'necessary in order to meet' those needs to make arrangements for the indicated benefits. It was held by Lord Nicholls that, in assessing the needs of the disabled person, the local authority had to have regard to the cost of what was to be provided and once regard was had to cost they must also have regard to the resources available to meet such cost. Depending on the authority's financial position the authority could be more or less stringent in the criteria it set as constituting need. Lord Clyde adopted a different approach. He apparently accepted that the local authority's resources were not relevant to deciding what were the needs of the applicant but held that they were relevant to the decision whether it was 'necessary' to make arrangements to meet those needs: he accepted that there might be in one sense 'unmet needs' if the local authority decided, in the light of its financial circumstances, that there was no necessity to meet those needs: see p475B and H. Whichever approach was adopted, the statutory provision there under consideration was a strange one. The statutory duty was to arrange certain benefits to meet the 'needs' of the disabled persons but the lack of certain of the benefits enumerated in the section could not possibly give rise to 'need' in any stringent sense of the word. Thus it is difficult to talk about the lack of a radio or a holiday or a recreational activity as giving rise to a need: they may be desirable but they are not in any ordinary sense necessities. Yet, according to the section the disabled person's needs were to be capable of being met by the provision of such benefits. The statute provided no guidance as to what were the criteria by which a need of that unusual kind was to be assessed. There was no definition of need beyond the instances of the possible benefits. In those circumstances, it is perhaps not surprising that the majority of your Lordships looked for some other more stringent criteria enabling the local authority to determine what was to be treated as a need by reference to the resources available to it.*

The case of *ex parte Tandy* concerned section 298 of the Education Act 1993 which provided as follows:

> *(1) Each local education authority shall make arrangements for the provision of suitable full-time or part-time education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.*
>
> . . .
>
> *(7) In this sub-section 'suitable education', in relation to the child or young person, means efficient education suitable to his age, ability and aptitude and to any special educational needs he may have.*

The issue was whether the local education authority was entitled to reduce the home tuition it was providing to a child with special educational needs, its decision to do so having been dictated purely by financial considerations. The House of Lords held that the statute defined what was meant by 'suitable education' by reference to wholly objective educational criteria, and distinguished *ex parte Barry inter alia* on the grounds that the statute in that case gave no guidance as to what were the criteria by which a need of the unusual kind mentioned in the 1970

Act was to be assessed. At p776J [(1998) 1 CCLR 355 at p360D], Lord Browne-Wilkinson said this:

> *First, the county council has as a matter of strict legality the resources necessary to perform its statutory duty under section 298. Very understandably it does not wish to bleed its other functions of resources so as to enable it to perform the statutory duty under section 298. But it can, if it wishes, divert money from other educational, or other, applications which are merely discretionary so as to apply such diverted moneys to discharge the statutory duty laid down by section 298. The argument is not one of insufficient resources to discharge the duty but of a preference for using the money for other purposes. To permit a local authority to avoid performing a statutory duty on the grounds that it prefers to spend the money in other ways is to downgrade a statutory duty to a discretionary power. A similar argument was put forward in the* Barry *case but dismissed by Lord Nicholls (at p470F–G) apparently on the ground that the complainant could control the failure of a local authority to carry out its statutory duty by showing that it was acting in a way which was* Wednesbury *unreasonable in failing to allocate the necessary resources. But with respect this is a very doubtful form of protection. Once the reasonableness of the actions of a local authority depends upon its decision how to apply scarce financial resources, the local authority's decision becomes extremely difficult to review. The court cannot second-guess the local authority in the way in which it spends its limited resources: see also* R v Cambridge District Health Authority ex parte B *[1995] 1 WLR 898, especially at p906D–F. Parliament has chosen to impose a statutory duty, as opposed to a power, requiring the local authority to do certain things. In my judgment the courts should be slow to downgrade such duties into what are, in effect, mere discretions over which the court would have very little real control. If Parliament wishes to reduce public expenditure on meeting the needs of sick children then it is up to Parliament so to provide. It is not for the courts to adjust the order of priorities as between statutory duties and statutory discretions.*

Mr Baker relies on *ex parte Barry*, and in particular the similarity between the language of section 2(1) of the 1970 Act, viz: 'necessary in order to meet the needs . . .', and section 24(3)(a) of the 1996 Act viz: 'necessary and appropriate to meet the needs . . .' At first sight, there appears to be some force in this point, although Mr Baker realistically accepts that *ex parte Barry*, being a decision on a different statute, can be no more than persuasive authority.

I do not consider that *ex parte Barry* provides the answer to the question that I have to decide. The important differences between the two statutes include the following. First, the needs mentioned in section 23(1) of the 1996 Act are real needs for disabled occupants as defined. The observation by Lord Browne-Wilkinson that the lack of certain of the enumerated facilities could not possibly give rise to 'need' in any stringent sense of the word is not applicable to the facilities enumerated in section 23 of the 1996 Act. Secondly, none of the clues as to the intention of Parliament which I have mentioned earlier was present in the 1970 Act. I refer in particular to the legislative background, the contrast between the discretionary and mandatory grants, the references showing that the draftsman was alive to the issue of financial resources, and the existence of section 24(3)(b) and (4) of the 1996 Act.

Conclusion

I conclude, therefore, that, save to the extent that they are expressly authorised or required by the 1996 Act to have regard to resource considerations, local housing

A authorities are not entitled to take resources into account in deciding whether or not to approve a DFG for section 23(1) purposes. In enacting the 1996 Act, Parliament chose to downgrade statutory duties to discretions in relation to the approval of all four types of grant, save for DFGs for section 23(1) purposes. In making the decision to treat section 23(1) DFGs differently, it recognised the
B importance of obliging local housing authorities to approve grants to disabled occupants whose applications fulfilled the purposes enumerated in section 23(1). It also recognised (but only to a limited extent) the need to ensure that the resources of authorities were not unduly depleted in approving such grants. In this respect, the protection afforded by section 24(3) and (4) is of particular
C importance. But it did not permit authorities to curtail the amounts awarded or to decide not to approve such grants at all solely because they preferred to deploy their resources elsewhere.

The concluding words of Lord Browne-Wilkinson's speech in *ex parte Tandy* are entirely apt to the statutory provisions with which this case is concerned. Parlia-
D ment has chosen to impose a statutory duty in relation to DFGs within section 23(1) purposes. The court should be slow to downgrade such a duty into a mere discretion over which the court would have very little control. If Parliament wishes to redirect public expenditure on meeting the needs of disabled occupants of buildings, then it is for Parliament so to provide. In the 1996 Act, it seems to me
E that, for the reasons I have given, Parliament has made it even clearer than it did in the provisions of the Education Act 1993 that were considered in *ex parte Tandy* that, subject to certain express limitations, local housing authorities are obliged to approve DFGs within section 23(1) purposes whatever the resource implications of doing so may be.