An Coimisiún Pleanála

Direction
CD-022602-26
ACP-324528-26

The submissions on this file and the Inspector's report were considered at a meeting held on 02/11/2026.

The Commission decided to set aside the determination of the local authority and allow the appeal for the following reasons and considerations.

Reasons and Considerations

In the assessment of this appeal, regard was had to submissions on file, to the relevant legislation including the provisions of Section 653B of the Taxes Consolidation Act, as amended, to the recommendation of the inspector and to the judgments of the High Court [2026] IEHC 703 and [2026] IEHC H.JR.2024.0001464 H.JR.2026.000160.

Having regard to the commentary of the inspector that the Uisce Eireann capacity register dated April 2026 asserts that a Level of Service improvement is required on the water supply from Lough Corrib, and to the absence of any available information on file to confirm that adequate water supply without any reliance on future works was available on the 1st January 2026 (the date of assessment) and to the correspondence dated 26th August 2026 received by The Commission from Uisce Eireann, which states in relation to water supply, that a water network upgrade is progressing in the vicinity of the proposed lands is progressing and on completion will provide increased water network capacity to this area and in relation to wastewater services, that the lands are less than 200 metres to the existing

wastewater network and that an extension to the network will be developer funded and that there is work underway to increase capacity at Merlin Park No. 1 Pumping Station which will provide additional network capacity, it is not reasonable to consider that sufficient service capacity was available and that the lands had access or could be connected to public infrastructure and facilities necessary for dwellings to be developed

In deciding not to accept the recommendation of the inspector, the Commission noted and acknowledged the assessment and recommendation as set out in his report. However, on consideration of the subsequent judgments of the High Court [2026] IEHC 703 and [2026] IEHC H.JR.2024.0001464 H.JR.2026.000160, and a review of the content of the file by reference to same, the stated requirement for future works (in this case a Level of Service improvement), the commentary from Uisce Eireann by correspondence dated 26th August 2026 that a water network upgrade is progressing in the vicinity of the proposed lands is progressing and on completion will provide increased water network capacity to this area, and that wastewater works to increase capacity at Merlin Park No. 1 pumping station are underway, which works were not in place on 1st January 2026)) means that it cannot be established that the requisite capacity was available at the assessment date. Thus, it is concluded that the site is not within scope of the applicable legislation.

Planning Commissioner: Chris McGarry **Date:** 02/11/2026