



An  
Coimisiún  
Pleanála

Commission Order  
ACP-323124-25

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**Planning and Development Acts 2000, as amended**

**Planning Authority: Waterford City and County Council**

**Planning Register Reference Number: 2460637**

**Appeal** by David Orr against the decision made on the 27<sup>th</sup> day of June 2025 by Waterford City and County Council to grant, subject to conditions, a permission to Christopher Nicholson in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Removal of two number existing wastewater treatment units and installation of one number new wastewater treatment system, construction of a helicopter landing area and associated site works Ballynatray House, Ballynatray Estate, Youghal, County Waterford. The proposed development was revised by further public notices received by the planning authority on the 9<sup>th</sup> day of May 2025.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## Reasons and Considerations

Having regard to the limited scale and nature of works, including the provision of a replacement wastewater treatment system which would provide for an improved form of treatment at the subject site compared to the current established system, to the modest frequency of helicopter flights, the general flight paths as denoted in the application documentation, and ancillary nature of the proposed development to the established use of the subject site, in an expansive demesne landscape setting notwithstanding the location of the subject site (part) within a scenic estuarine setting area of Waterford and in an area classed as a sensitive Landscape in the Waterford County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the location and siting of the proposed development, within the attendant grounds of Ballynatray House, would not unduly detract from the landscape character or setting of Ballynatray Demesne or significantly injure the residential amenities of the properties in the vicinity, would not adversely impact on the visual amenities or landscape character of the area which includes a protected scenic route, would not give rise to water pollution or pose a significant risk to the protection of the local ecology and would therefore constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### Appropriate Assessment: Stage 1:

The Commission considered the documents submitted with the application, all relevant submissions on file, including the response submission of the applicant to further information received by the Commission on the 24<sup>th</sup> day of November 2025, and carried out an Appropriate Assessment screening in relation to the potential effects of the proposed development on designated European sites. The Commission agreed with the screening assessment and conclusion carried out in the Inspector's Report that the proposed

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development has the potential result in significant effects on the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code 002170) and Blackwater Estuary Special Protection Area (Site Code 004028) in view of the conservation objectives of those sites and that Stage 2 Appropriate Assessment is, therefore, required.

**Appropriate Assessment: Stage 2:**

The Commission considered the Natura Impact Statement, and all the other relevant submissions on file, including the response submission of the applicant to further information sought by the Commission which included an Addendum to the Natura Impact Statement and the expert opinion provided to the Inspector by the inhouse ecologist and scientist and carried out an Appropriate Assessment of the implications of the proposed development on the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code 002170) and Blackwater Estuary Special Protection Area (Site Code 004028) in view of the sites' Conservation Objectives. The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Commission considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Commission accepted and adopted the Appropriate Assessment carried out in the Inspector's Report in

respect of the potential effects of the proposed development on the aforementioned European Sites. In overall conclusion, the Commission was satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

### **Water Framework Directive**

On the basis of objective information and consideration of the documentation submitted at application and appeal stage and considering the report of the planning inspector, the Commission concluded that the proposed development would not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its Water Framework Directive objectives.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 6<sup>th</sup> day of May 2025 and by An Coimisiún Pleanála on 24<sup>th</sup> day of November 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.



2. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

**Reason:** To protect the integrity of European Sites.

3. (a) The use of the helicopter landing area shall be limited to private use associated with Ballynatray House and accommodate not more than 50 flights in any calendar year and shall not be used for commercial purposes.
- (b) Flight paths shall be in accordance with Plates 3.1 and 3.2 of the Natura Impact Statement.
- (c) The helicopter landing area shall not be rented, transferred or conveyed, save as part of the overall landholding.
- (d) No helicopter fuel storage shall be provided as part of this permission.

**Reason:** In the interest of clarity and residential amenity and to prevent pollution and disturbance in the local environment.

4. (a) Prior to the commencement of works, landscaping details with regard to obscuring the one metre high control kiosk shall be submitted for the consideration and written agreement of the planning authority.
- (b) When not in use, the 10 metre high windsock mast, shall be lowered.



**Reason:** To ensure that the character and integrity of vistas and setting of the Ballynatray House, a Protected Structure is maintained.

5. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of environmental protection and public health.

6. The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report and documentation submitted with the application and appeal.

**Reason:** In the interest of public health.

7. The existing septic tank shall be decommissioned and de-sludged. The sludge from the septic tank shall be taken to a licensed facility, by a licensed waste disposal operator. Once the new system is operational, the developer shall submit, to the Planning Authority, certification from a suitably qualified person that the existing septic tank has been safely and appropriately decommissioned.

**Reason:** In the interest of public health and protection of the environment.

8. (a) The developer shall engage a suitably qualified (license eligible) archaeologist to monitor (licensed under the National Monuments Acts 1930-2014) all site clearance works and groundworks associated with the development. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary.

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- (b) Should archaeological remains be identified during the course of archaeological monitoring all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with National Monuments Services, regarding appropriate mitigation.
- (c) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.
- (d) Following the completion of all archaeological work on site and any necessary post excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

**Reason:** To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

- 9. The mitigation measures contained in the submitted Architectural Heritage Impact Assessment shall be implemented in full.

**Reason:** To protect the integrity a Protected Structure and its setting.

10. (a) The construction management and pollution prevention measures contained in the submitted Construction Environmental Management Plan shall be implemented in full.
- (b) The Construction Environmental Management Plan shall ensure adequate protection of the boundary walls, bridge, piers and gateways within the Demesne used during the transport of material to and from the site by construction traffic.

**Reason:** In the interests of environmental protection, heritage protection, proper planning and sustainable development.

11. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.



Chris McGarry

Planning Commissioner of An Coimisiún  
Pleanála duly authorised to authenticate  
the seal of the Commission.

Dated this 27<sup>th</sup> day of January 2026.