**COMHAIRLE CONTAE ÁTHA CLIATH THEAS
SOUTH DUBLIN COUNTY COUNCIL**



**MEETING OF SOUTH DUBLIN COUNTY COUNCIL**

**Monday, 8th July 2024**

**Headed item for approval**

The Council agree to provide express authorisation to the Chief Executive to defend a Judicial Review taken against the County Development Plan (Jones Investment Limited v SDCC [2022/686JR])

**Report**

Approval under section 153(2) of the Local Government Act 2001, as amended, is sought from Elected Members to authorise the Chief Executive to act for and behalf of the Council in High Court judicial review proceedings, *Christopher (otherwise Chris) Jones and Jones Investments Limited (Applicants) v South Dublin County Council (Respondent) (2022/686JR*), including in relation to all actions taken to date by the Chief Executive in those proceedings.

The proceedings relate to a judicial review in which the applicants seek to quash a Specific Objective (SO) for a school site included in the adopted South Dublin County Development Plan 2022 – 2028 on lands owned by the applicants which are located at Stocking Avenue, Ballycullen, County Dublin. The location of the lands to which the Specific Objective applies are shown in Map 10 of the South Dublin County Development Plan 2022-2028 (below), with the school site marked by the symbol S.



The lands on Stocking Avenue, Ballycullen, County Dublin were first identified as a “Primary School Site” in the Ballycullen-Oldcourt Action Area Plan, adopted in 2000, and were subject to a Specific Objective in the Ballycullen-Oldcourt Local Area Plan 2014 and the South Dublin County Development Plan 2016 – 2022.

In preparing the South Dublin County Development Plan 2022-2028, the Council’s Planning Department liaised with the Department of Education and Skills to determine the continuing need for a school on this site. This was based on the information in the County Development Plan Core Strategy which identifies the likely quantum of development to be delivered over the life of the plan, and based on the Department of Education and Skills’ own internal analysis of schooling requirements in this area. This requirement for the school on this site is aligned to the number of new homes in the Local Area Plan at Ballycullen-Oldcourt which are either already completed, under construction or yet to be built. This school provision is in addition to any schools which have been granted permission and awaiting funding or in the process of seeking planning permission. This position was agreed by the Council and included in the adopted County Development Plan (2022 – 2028).

Following adoption of the County Development Plan, the applicants instituted proceedings in August 2022 to remove the requirement for a school on this site. At its meeting held on Monday 6th March 2023, members of the Council’s Corporate Policy Group were made aware of the proceedings and that the Council was defending those proceedings. Opposition papers setting out the Council’s full defence to the proceedings, were filed on 9th February 2024

The proceedings were heard by the High Court (Humphreys J.) on 14th and 15th May 2024 and the High Court has reserved judgment in the proceedings. During the hearing the High Court (Humphreys J.) enquired as to whether the Elected Members had given express authorisation under section 153(2) of the Local Government Act 2001, as amended, to the Chief Executive to defend the proceedings. This issue had not been raised previously and there was ambiguity relating to its necessity, but a subsequent and very recent High Court decision (Farrell J.), delivered on 27th June 2024 in the case of *‘Oceanscape v DLRCC and Minister of Education’*, has provided further clarification of the Court’s views relating to authorisation requirements.

Accordingly, to advance the proceedings which have already been heard by the High Court and in respect of which judgment is awaited, an express authorisation is now being sought from the Elected Members for the Chief Executive to act for and on behalf of the Council in the judicial review proceedings and that such authorisation shall apply to all actions taken to date by the Chief Executive in those proceedings and the following motion is recommended for approval:

“Elected Members of South Dublin County Council expressly authorise, pursuant to Section 153(2) of the Local Government Act 2001, as amended, the Chief Executive to act for and on behalf of the Council in the judicial review proceedings entitled *Christopher (otherwise Chris) Jones and Jones Investments Limited v South Dublin County Council (2022/686JR)* and further agree that, to the extent necessary, this authorisation shall apply to all actions taken to date by the Chief Executive in those proceedings.”

END.