

DÁIL ÉIREANN

AN COMHCHOISTE UM IOMPAR AGUS CUMARSÁID

JOINT COMMITTEE ON TRANSPORT AND COMMUNICATIONS

Dé hAoine, 18 Iúil 2014

Friday, 18 July 2014

The Joint Committee met at 2 p.m.

MEMBERS PRESENT:

Deputy Timmy Dooley,	Senator Sean D. Barrett,
Deputy Bernard J. Durkan,*	Senator Terry Brennan,
Deputy Dessie Ellis,	Senator Eamonn Coghlan.
Deputy Seán Kenny,	
Deputy Helen McEntee,	
Deputy Mattie McGrath,*	
Deputy Eamonn Maloney,	
Deputy Eoghan Murphy,*	

* In the absence of Deputies Patrick O'Donovan, Tom Fleming and Noel Harrington, respectively.

DEPUTY JOHN O'MAHONY IN THE CHAIR.

Concert Licensing: Dublin City Council

Chairman: The purpose of the meeting is to engage with Mr. Owen Keegan, chief executive, Dublin City Council, and his colleagues, Mr. Jim Keogan, executive manager of the council's planning department, and Mr. John Downey, administrative officer, to hear their response to the evidence members heard on Wednesday, 16 July, from the GAA and Aiken Promotions on the Garth Brooks concerts. I welcome Mr. Keegan, Mr. Keogan and Mr. Downey.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the joint committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or an entity by name or in such a way as to make him, her or it identifiable. Any submission or opening statement submitted to the committee will be published on its website after the meeting. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official by name or in such a way as to make him or her identifiable.

I invite Mr. Keegan to make his opening statement.

Mr. Owen Keegan: I welcome the opportunity to appear before the joint committee again to respond to the evidence given to it last Wednesday by Aiken Promotions and the GAA and address additional questions members might have. I assure them, the media and the general public, particularly in the light of considerable media reporting, that the city council operated fully and appropriately within the planning and event licensing laws laid down by the Houses of the Oireachtas, as was its duty.

A number of very serious issues were raised at the meeting attended by the representatives of the GAA and Aiken Promotions and, for the sake of clarity, I wish to respond to some of them at this point. I will deal, first, with the submission of Mr. Peter Aiken.

At point No. 10 of his statement Mr. Aiken states as follows:

On Wednesday, 12 February, a meeting was held with Dublin City Council. I was accompanied by the event controller and the licensing and safety officer of Aiken Promotions. Attending the meeting from the council was the city manager, the executive manager and the licensing officer. The meeting was constructive. Dublin City Council did inform us that it would be a big ask to do five consecutive days at Croke Park and that it would be looking for additioality to the standard arrangements to address the impact on the local community. We also discussed the timeframe for submitting the licence application and the potential benefits to the city.

The meeting referred to by Mr. Aiken was unrelated to the Garth Brooks concerts. Although the meeting did take place, its purpose was to discuss compliance issues associated with events at the RDS where Mr. Aiken was the promoter. At the end of the meeting Mr. Aiken brought up the issue of the proposed Garth Brooks concerts. Mr. Aiken has acknowledged that the city council told him that five concerts on consecutive days would be "a big ask."

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This should have alerted Mr. Aiken, an experienced concert promoter, to the fact that there was no certainty regarding the outcome of the licensing process for the Garth Brooks concerts.

At point No. 16 of his statement Mr. Aiken states:

On 3 April, I met with Bob Doyle and rest of the Garth Brooks team in Nashville. They did make a general enquiry about the status of the licence. I relayed to them that Peter McKenna had spoken to the city manager and he had been told we would get the licence for the five shows.

At no stage did I advise Mr. McKenna that a licence would issue for the five shows. Neither Mr. Duffy nor Mr. McKenna in their statements or oral evidence to the committee on Wednesday indicated that I had advised Mr. McKenna - at any stage - that they would get a licence for five shows. I will deal with this matter further when I respond to the written statement submitted by Mr. Duffy.

At point No. 24 of his statement, dealing with my telephone conversation with Mr. Jim Clarke on 2 July, Mr. Aiken states:

Shortly after, the city manager made contact again with a firm offer to grant the licence for four shows ... and I relayed this response to the Event Controller who asked that Garth's position be considered by the Council and a view on this conveyed back to us before 1 p.m. that day.

When I informed Mr. Clarke late on the evening of 2 July that the likelihood was that only three concerts would be permitted, he asked for time to consult Mr. Aiken and Mr. Brooks. Mr. Clarke rang me back later that night to say Garth Brooks would not perform three concerts. I then offered to discuss with the decision maker in the planning department, Mr. Keogan, the possibility of permitting a fourth concert if Mr. Clarke could give me a guarantee that Garth Brooks would fulfil the four concerts. I gave no commitment to Mr. Clarke in this regard and, therefore, it is completely inappropriate to have referred to this as a firm offer; it was not. Early on the morning of Thursday, 3 July - at approximately 7.30 a.m. and before any conversation took place with the decision maker - Mr. Clarke rang me back to say that unless all five concerts were permitted, Garth Brooks would not come to Dublin at all. I then withdrew the offer I had made to discuss the possibility of a fourth concert with Mr. Keogan and the decision was made to grant the licence for three concerts. Since I had already conveyed the council's position to Mr. Clarke during our 7.30 a.m. conversation, the issue of getting back to him before 1 p.m. that day did not arise.

At point No. 27 of his statement, dealing with my meeting with him on 9 July, Mr. Aiken states:

During that meeting, in desperation to resolve the issue and without due consideration or any consultation with Garth Brooks, I put forward a number of different suggestions to see what, if any, options the council would be willing to review or if the matter was closed from all angles. This included doing five concerts as originally planned, early shows on Monday and Tuesday and also, the issue of matinées on Saturday and Sunday.

It should be noted that Mr. Aiken now accepts that the idea of matinée shows on Saturday and Sunday came from him, not the city council.

In his conclusions Mr. Aiken states, "I accept the procedure and that the elements of pro-

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cess were correctly followed but I feel that the decision making process was not ‘reasonable, balanced or fair’ and that the decision was wrong.” It should be noted that Mr. Aiken, the promoter, now accepts that the event licensing procedure was correctly applied in this case by the city council. Clearly, he is unhappy with the council’s decision. However, it is not unusual for an applicant, in a planning or event licensing process, not to be happy with the decision on a particular application.

I will now deal with the submission of Mr. Páraic Duffy. On page 1 of his statement he refers to the Garth Brook concerts being the “great celebratory experience of the summer of 2014.” He also states “An irresistible social force took over, and suddenly five concerts had sold out, and 400,000 tickets had been sold.” An irresistible social force taking over may or may not have been the case. It is, in terms of the licensing framework laid down by statute, irrelevant. While it stirs an emotive narrative, it does not alter the fact that Aiken Promotions was obliged to submit an event licence application for the five concerts and that the city council had to apply the statutory licensing procedure in assessing that application. The legislative framework permits no other approach.

On page 1 of his statement Mr. Duffy indicates that they had “concerns about the impact on the local community of a larger than usual number of concerts taking place on successive evenings. These concerns were allayed somewhat by several factors.” One of the factors quoted by him was the fact that “concert licences in Dublin have never been declined.” The fact that Dublin City Council had never previously refused to issue an event licence to Croke Park should not have been interpreted by the GAA as indicating that it would have no difficulty in getting an event licence for the proposed five concerts on consecutive nights. This was especially the case as the maximum number of special events-concerts held in any previous year at Croke park had been four and that the maximum number of consecutive concerts in any previous year had been three. The event licence being sought on this occasion was for five concerts on consecutive nights, in addition to the three One Direction concerts already held this year under Croke Park’s planning permission.

On page 2 of his submission Mr. Duffy states:

On the other hand, there are two unpalatable facts that have to be faced up to: first, not all of those who objected most vociferously to the concerts even live in the area adjacent to Croke Park, and, second, many of the objections lodged with Dublin City Council were fraudulent. In addition, it has to be recognised, and is now clear, that the majority of residents in the area were not opposed to staging five concerts ... We totally respect the rights of all residents, but I think it’s important that we do not fall into a facile supposition of the big organisation bullying the little man.

On page 7 of his submission Mr. Duffy states, “It would appear, however, that Dublin City Council was swayed by the submissions it received that objected to the holding of five concerts” and “It is not unreasonable to assume there may have been many more fraudulent submissions, given what was quite clearly an orchestrated campaign to prevent a licence for five concerts, through fair means or foul.” In the statutory event licensing process Dublin City Council is obliged to consider all submissions it receives from members of the public. The right to make a submission is not restricted to residents living close to Croke Park. The city council is not aware of any evidence to support the claim made by Mr. Duffy that it was clear “that the majority of residents in the area were not opposed to staging five concerts.” It must be guided by the submissions it receives as part of the public consultation process provided for under the statutory licensing procedure. It has no choice.

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In any public consultation process under legislation it is the actual content of the submissions made that is considered by the decision maker in helping him or her to reach a decision. While the number of persons making the same point may indicate a strong view among the public, the decision maker must still assess the validity of the point being made in reaching his or her decision. Whether there are five, 15 or 500 submissions, Dublin City Council must take account of the views expressed in the submissions. The volume or absolute number is not the issue. In this instance, there were 384 submissions made by the public, etc. The number of submissions was significantly higher than in respect of any previous special event or concert in Croke Park subject to the event licensing procedure. Each submission was individually acknowledged where an address or e-mail details had been provided. In response to these acknowledgements, 11 persons contacted the city council to state they had not made submissions. These submissions were not considered and the matter was referred to An Garda Síochána for investigation. It was, I stress, the city council which initiated the contact with the Garda to have the matter of suspect submissions investigated.

While it may be reasonable to assume that more than 11 suspect submissions were lodged at the time, it would be totally unreasonable on that basis to ignore all of the submissions made by the public and we have no right to do so. It would, in fact, be in breach of the statutory process. Based on an investigation of a sample of 200 submissions, 64% have been assessed as "not suspect" by An Garda Síochána. The primary issue of concern in all of the submissions was the level of disruption that would arise from the holding of the five concerts. In the report on the licence application, prepared by Dublin City Council's designated event co-ordinator, which was endorsed by the decision maker, three reasons are advanced for only granting three of the five concerts proposed. The first relates to the scale, magnitude and number of concerts, with an expected attendance of 80,000 people per night for five consecutive nights, three of which would have been week nights.

The second relates to the fact that three concerts had already taken place in Croke Park this year from 23 to 25 May. In doing so it referred to the fact that Croke Park is located in a heavily populated residential area and that five shows in a row following on from the three concerts already held this year would be considered an over-intensification of use of the stadium for concert events. The third reason relates to the accumulative effect on residents and businesses in the area of holding five shows in a row, which would lead to an unacceptable level of disruption to their lives and livelihoods for those five or more days.

The report states that in arriving at this decision:

The Planning Authority has carefully considered any information sent in by the applicants, any submissions from the prescribed bodies, submissions/observations received within the statutory period, whether events have previously been held on the land concerned, the matters referred to in Section 231(4) of the Planning & Development Act 2000 (as amended), any relevant Ministerial codes of practice or guidelines, the information outlined/exchanged at the event-related meetings that the Planning Authority had attended associated with the application, any other information received at the request of the Planning Authority.

Section 231(3) of the Planning and Development Act 2000 specifically requires the local authority, in assessing an event licence application, to have regard to "the avoidance or minimisation of disruption to the neighbourhood in which the event is to take place". Even if no submissions were received, we would be required to consider this matter. Although important, the submissions-observations made by the public are only one of the matters that must be con-

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sidered by the city council in reaching its decision. While a percentage of those submissions-observations have been found to be suspect, the majority remain valid. The main issue raised in all submissions, which was the disruption that would arise from the holding of five consecutive concerts, was one which the decision-maker was required in any event to take into account.

The council is of the view there was a failure on the part of the GAA-Aiken Promotions to address the legitimate concerns of residents. This failure was evidenced by a number of public meetings of residents where strong opposition was expressed to the proposed five concerts and by the large number of objections to the proposed concerts submitted under the public consultation process as part of the event licensing process. At a number of public meetings senior officials of the GAA acknowledged that the proposal to hold five concerts on consecutive nights was “too big an ask of local residents” and a “mistake”. Mr. Páraic Duffy, director general of the GAA reflected the genuine concerns of local residents when before any decision had been made on the event licence application, he stated on the RTE news on 27 June 2014: “We accept that to have eight concerts this year is asking too much of our residents”. That is a direct quote of what he said. The fact that Mr. Duffy acknowledged publicly that eight concerts was asking too much of local residents totally undermines the GAA’s criticism of Dublin City Council for taking account of the concerns of the same local residents and approving only three of the five requested concerts. Indeed, his comments actually support the view that in granting three concerts the council had reached an appropriate, balanced and fair decision based on all the factors raised during the statutory process.

On page 4 of his submission Mr. Duffy states: “During our discussions with DCC, the impact of five shows on local residents was always raised”. This again confirms the city council’s position that the impact of the five consecutive shows on local residents was consistently raised. Mr. Duffy further states on page 4 of his submission: “I must stress the absolutely vital point that at no stage was there even a hint that a licence would not be granted for all five concerts”. On page 5 of his submission, Mr. Duffy states: “At no stage was Croke Park alerted to the need to prepare contingency plans for a smaller number of concerts”. As I outlined in my statement to the committee on Tuesday, it would not have been appropriate for any officer of the city council to indicate the likely outcome of the event licensing process or to alert Croke Park of the need to prepare contingency plans until that process had been completed. To do so would have exposed the council to the very real possibility of legal action. The city council did indicate consistently throughout the process that it had concerns regarding the impact of the proposed five consecutive concerts on local residents.

On page 4 of his submission Mr. Duffy states:

In their phone conversation, Mr. Keegan advised Peter McKenna that Dublin City Council would support a licence application for all five concerts. Mr. Keegan asked Peter McKenna to make the decision-making process as easy as possible for DCC.

I returned a telephone call to Mr. McKenna early in February 2014 in which I indicated to him that I would be supportive of the Garth Brooks concerts. The city council had previously been supportive of special events-concerts in Croke Park and supports special events-concerts at other venues across the city because of the benefits to the city. As chief executive, I am always supportive of events which add value to the city. However, I gave absolutely no assurance nor could I have given any assurance at that stage that all five concerts would be licensed because no event licence application had been submitted in respect of the concerts. Mr. McKenna was fully aware of the event licensing process and must have known that any decision on a licence application would have to follow the statutory process and be informed by that process, includ-

ing any submissions by members of the public etc. which, of course, had not been received at that point.

On page 6 of his submission Mr Duffy states:

Despite our excellent record of running concerts in Croke Park, despite Dublin City Council's praise for our running of the One Direction concerts, despite the quality of the submission and total commitment to formulating the licence application according to the letter of the law, and despite a long-standing relationship with Dublin City Council, apparently we did not even deserve the courtesy of being allowed to consider, and possibly address, the grounds for the refusal to grant a licence for five concerts.

The Oireachtas has laid down the event licensing procedure which was applied by the city council in this case. There is no provision for the applicant to be allowed address the reasons for refusal of a licence, once a decision has been made on the application. There is also no appeal mechanism. I accept that when this is presented in a certain manner, it may appear unreasonable but this is the law. It is not an area in which Dublin City Council has any discretion.

On page 8 of his submission Mr Duffy states:

What DCC actually says is that potential benefits are, I quote, "not central" in its decision-making. That does not seem to say that economic benefits are not considered at all, only that DCC does not seem to consider them very important in considering licence applications. If only DCC had done so on this occasion.

and, "Moreover, we made a decision that can be considered undemocratic, in that the wishes of a truly enormous number of people were ignored". The criteria to be considered in assessing an event licence application are set out in the relevant legislation. These criteria were applied in this case. In any event, the council is satisfied that it had regard to the economic benefits to the city of the Garth Brooks concerts when it decided to licence three of the five concerts. The issue of the decision being democratic or undemocratic simply does not arise. Yet again, I must advise members that Dublin City Council followed the procedures set down in the legal framework, within which it must operate.

I want to assure members and the public of three key issues. First, the integrity of the statutory event licensing framework is paramount. I am satisfied that the city council, in its assessment of the Garth Brook concerts event licence application, upheld the integrity of the laws under which it must operate. Second, while there has been a huge, and to some degree understandable emotive narrative around aspects of these concerts, had the city council not operated within the legal framework it would have been subject to legal challenge for its failure to do so. Third, I am confident that few people in the Houses of the Oireachtas or the wider public want a planning-licensing system which gives a free reign to certain vested interests or one which operates on the basis old style understandings. Our job was to apply the legal framework diligently and fairly to ensure the correct process is followed in this and every other planning or licence application. We did this in the case of the Garth Brooks concerts application.

Are the event licensing laws fit for purpose? As members will be aware, the Minister has indicated his intention to review the legal framework. The city council welcomes this and will contribute fully to any review established by the Minister. In the meantime, we will, and must, comply with and implement the existing rules. I want to reiterate the conclusions to my statement to the committee on Tuesday. If the integrity of the planning system is to be maintained, it is important that the interests of no single individual or organisation, regardless how cherished a place they occupy in the hearts of the nation, is allowed to unduly influence that system. The genuine concerns of local residents, which were a factor in the city council's decision, cannot,

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and should not, be disregarded, notwithstanding the short-term commercial or economic arguments for doing so.

Mr. Páraic Duffy, director general of the GAA reflected the genuine concerns of local residents when he stated on the RTE News on 27 June 2014, before any decision had been made on the event licence application: “We accept that to have eight concerts this year is asking too much of our residents”. The fact that Mr. Duffy acknowledged publicly that eight concerts was asking too much of local residents totally undermines his criticism of Dublin City Council for taking account of the concerns of local resident and only approving three of the five requested concerts.

I am satisfied that the statutory event licensing procedure was applied correctly in this particular case by the city council and the decision reached was appropriate, balanced and reasonable, having regard to all the competing interests. Nothing that has occurred since the decision was made has changed my opinion that it was appropriate, balanced and reasonable. The council would welcome an independent, impartial and objective review of all aspects of its handling of this licence application.

Chairman: I thank Mr. Keegan. It might have been of assistance to us if his submission had been circulated to members in advance of the meeting. However, that is just a by the way.

I have a few questions for the delegates before giving members the floor. The following is stated on page 5 of Mr. Keegan’s submission: “In any public consultation process, under legislation it is the actual content of the submissions made that is considered by the decision maker in helping to reach a decision”. Does that apply even to fraudulent submissions? In other words, will the content of a submission be taken into account regardless of whether it is fraudulent or genuine?

Second, since the delegates were here on Tuesday several media outlets have reported that if efforts to have an uncontested judicial review were successful, it would be a resigning matter for Mr. Keegan. In fairness, Mr. Keegan has stated that Dublin City Council would contest any such review. Will he confirm whether these media reports are accurate?

My third question is to Mr. Keegan. He stated here on Tuesday that he has a property in the vicinity of Croke Park in which his son is currently living and that the latter did not make a submission to the council regarding the proposed concerts. Will Mr. Keegan indicate whether he has any other interests or property in the vicinity and if any other relatives of his made a submission?

Mr. Jim Keegan: On the Chairman’s last point, I do not have any other property interests in the area and, to the best of my knowledge, I am not aware of any person related to me who made a submission. That is being as honest as I possibly can be on the matter.

Chairman: I just wanted to clear that up.

Mr. Jim Keegan: The Chairman’s first question was whether we take into account the content of a fraudulent submission. The point we are making here is that it is not necessarily the volume of submissions that is relevant when it comes to the evaluation assessment of a particular proposal but the actual issue that is raised. Consequently, whether there is one, 15 or 500 submissions is not the issue but whether or not the content of what is being raised is material to the assessment. When we made the decision in this case we were aware there were 12 fraudulent or suspect submissions and we alerted the Garda to that fact. It has transpired from the

investigation that is being carried out into the submissions that 64% of those examined would appear not be in any way bogus. The opinion of the law agent which we thereafter sought was that the decision was sound and the integrity of that decision was also sound. There has as yet been no challenge to that decision as to whether or not we erred in law in making it.

Mr. Owen Keegan: In regard to the prospect of an uncontested judicial review, my understanding is that the purpose of such a review is to examine whether the correct procedure was applied in any administrative process. I stand absolutely firm in my belief that while the decision that was made in this case may well have been unpopular, the statutory event licensing process, which is laid down by the Oireachtas, was correctly applied by Dublin City Council. On that basis, for me to have consented to an uncontested judicial review would be an acknowledgment that it was not correctly applied. It would be completely contrary to everything I have said to this committee and every belief I have in regard to that process. I would lose all credibility if having stated here that we had applied the process correctly, I then consented to an uncontested judicial review.

Chairman: Would it have been a resigning matter?

Mr. Owen Keegan: I would have resigned if that had happened.

Chairman: I have a final question before I hand over to Deputy Timmy Dooley. One of the delegates stated here on Tuesday that there would normally be ten or 20 objections where an event licence application is submitted. Given that there were 384 in this case, did the council at any stage begin to suspect that some of them might be fraudulent?

Mr. Jim Keogan: No. The regulations state that any individual - it does not necessarily have to be a person who is residing in the immediate area of Croke Park - can make a submission or observation on a particular event licence application. Certainly, the significant volume of submissions was a matter of discussion. We were very aware that there was quite a lot of controversy in the area and numerous public meetings had taken place to discuss the proposed event. It should be noted that the regulations are silent in regard to what one does with a submission. There is no requirement to acknowledge it, but it is the custom and practice of the city council, as a licensing authority, to give an acknowledgment of all submissions and observations received. On foot of that process, when it was drawn to our attention that there was an issue relating to 11 of the submissions - again, this is not a requirement under the regulations - we drew it to the attention of the Garda. We did everything in our power to ensure the system was upheld to proper legal process.

Deputy Timmy Dooley I welcome the delegates and thank them for their continued engagement with the committee. Going through the evidence they have given, I certainly do not question in any shape or form the way in which the event licence procedure was applied in this case. Indeed, I do not think anybody here has any issue with the way in which Dublin City Council followed procedure. As far as we can see, it was followed in the way it should be followed. On the contrary, my issue, in common with most people, is with the outcome, that is, the decision the delegates ultimately took. To clarify, while we might raise questions about the decision arrived at, it is not in any way to suggest that the council followed the wrong procedure or did something necessarily wrong in that effort.

We have been dealing with the statutory period from the time when the application was lodged until a decision was taken. We are here today because of what both Mr. McKenna and Mr. Duffy told the committee, namely, that it was their belief, based on the conversation that

took place back in February, that the council would support a licence application for all five concerts. In fairness, Mr. Keegan has not denied his giving that impression to Mr. McKenna. However, in the statement he has issued, Mr. Keegan said he gave no assurance in this regard and there was no certainty and no firm offer. These are all absolutes. Mr. McKenna has never indicated there was an absolute because he could not do so until the statutory process was entered into. There was always the possibility that a particular problem might arise as part of the process which could not be resolved. The decision that was taken was based on concerns regarding over-intensification and the potential for setting a new precedent which the council felt would have led to an unacceptable level of disruption.

It seems those issues were blindingly obvious to Mr. Keegan in February, when he had that conversation with Mr. McKenna and gave the impression that he would be supportive in a general way. That is without the issue of assurances. We all accept that and we know how the process works. The witness did not have the authority to give assurances at that stage but he gave Mr. McKenna some expectation, legitimate or otherwise, that if an application was submitted for five concerts, recognising that additional information would be required and if a threshold was reached, there could be an expectation of a positive outcome. I may be repeating myself but the issues under which Mr. Keegan refused the five licences seem to have been blindingly obvious in advance of the process even beginning. Why did Mr. Keegan lead Mr. McKenna to believe he would be supportive, albeit in principle, of five licences?

Mr. Owen Keegan: I am glad we cleared up any misunderstanding. I fully accept that I indicated I would support the five. From my perspective and given the economic value of this to the city, if I had either refused to take a phone call or stated that we were totally opposed to this, essentially indicating that a licence would not be forthcoming, I would have been accused of undermining a major event coming to the city. I would always work in a positive way to try to encourage people but I would have made it clear to Mr. McKenna there were two key considerations. The first was to ensure no issues emerged from the One Direction concerts and the second was to deal with the legitimate concerns of residents. Through the licensing period there was a failure to deal with legitimate concerns, and if the committee does not agree with my view in that regard, I have given the view of the director general, who has publicly stated it was “too big an ask”. There is clear recognition from the GAA that there were legitimate concerns and that having eight concerts at the venue was “too big an ask”. It is interesting that Mr. Mulvey recommended a maximum of three concerts. This is not just down to the city council, as it had gone way beyond Mr. Mulvey’s recommendation when it permitted three concerts on top of the three which had already taken place. I would not have liked to rule out the possibility of this and if the legitimate concerns of the residents had been taken into account, it would have been possible to have given a licence.

As I mentioned to the committee at the last session, I was very familiar with the application of the event licensing process with respect to the Marlay Park concerts. From my understanding, in the 14 years there have been concerts there, the total number of objections received is one. There are many issues associated with concerts, no matter what the location, with respect to local residents, but with proper management and engagement, it is possible to address those concerns. There was a singular failure to do that with this case and that became evident during the licensing process.

Deputy Timmy Dooley: To be clear, Mr. Keegan indicated that the conversation with Mr. Peter McKenna contained an expression from Mr. Keegan that he was supportive of five concerts. That is what he has said.

Mr. Owen Keegan: At that stage I would have been supportive of five concerts.

Deputy Timmy Dooley: How was it at that stage that he did not envisage a breach of precedent, which has been cited as a reason for refusal? The witness was aware the three One Direction concerts had taken place and the planning stipulation allowed three concerts. The three events for the year had already taken place. Mr. Keegan should have been aware of the precedent issue and he should certainly have been aware of the possibility of over-intensification, so-called, if that is what was the ultimate outcome. The issue of a level of disruption is the only issue where Mr. Keegan may have some grounds in arguing that the relevant parties did not succeed in providing the appropriate plan which could have mitigated the worst effects of the excessive disruption. It seems the other issues should have been blindingly obvious, that five concerts represented over-intensification, if it did, or that there was a breach of precedent. These were reasons given by Mr. Keegan or which were arrived at by Mr. Keegan in the process of statutory proceedings as grounds for refusal. Nevertheless, Mr. Keegan did not see those in February or in the following months, when 10% of the country was excited or exhilarated about attending this event. It became a “major national event”, to quote Mr. Páraic Duffy. Tickets were being sold while stages were being built and lighting rigs were being put together to be packed on a boat somewhere in the United States to come here.

At this time, Mr. Keegan sat back and believed everything was okay, allowing this to spiral out of control. It is a hard one for me and the council’s rate payers to fathom. I note the Restaurants Association of Ireland issued a statement today. It does not refer personally to Mr. Keegan, in fairness, although it is worded negatively towards Dublin City Council. It has passed a motion demonstrating a lack of confidence in Dublin City Council to be pro-business. It is a damning indictment of the executive within the council and I expect it will need to respond to it. These are the rate payers and the people most affected by the cancellation of all these events. They and the people they employ have the most to lose.

I am not comfortable that Mr. Keegan was able to be seen to be supportive in February but reached a decision preventing the concerts going ahead. Two of the reasons outlined as part of the decision to refuse should have been blindingly obvious right from the start.

Mr. Jim Keogan: With regard to intensification, everybody accepts that from the start we were made aware of the number of concerts proposed and we always stated that the issue of the impact on the surrounding neighbourhood would be central to any assessment and subsequent decision on the licensing process. That was a consistent position from the start. Tickets had been sold and we had been notified but not consulted. I referred the last day to the desirability of having a formal pre-application consultation where frankness could prevail, as distinct from a position where there would be a liability of court proceedings arising from what is said or unsaid.

The Deputy raised the issue of intensification and I noted from Mr. Duffy’s comments yesterday his suggestion that we may in some way try to curtail the number of sporting events taking place in Croke Park in future. That is not the intention and Dublin City Council, specifically the planning authority, has no problem with the number and intensity of sporting events in Croke Park. That is an established and approved use. Others may have difficulties but the planning authority has none. The profile of sporting events has only really arisen since the restructuring of the championship. There may be not more than two consecutive days where there is a sporting event, and it is only when the play-offs arise that events would take place on a Saturday and Sunday.

The concert issue is a very different type of use. It would involve a different type of crowd and timeframe, with a much later closing time. As it is a festival scenario, attendees would be more boisterous and there is associated noise. Sport is not an issue and we would welcome any opportunity to host the Rugby World Cup or any major European championship. That will not be an issue for the planning authority. The profile of concerts is an issue, as well as the cumulative effect of five nights of consecutive concerts. We were conscious of the widespread economic benefits accruing from this but there had to be a reasonable, balanced and fair approach to the licence applications. We struck on granting approval for three concerts.

Deputy Timmy Dooley: The witness has spoken about the profile of the concerts. Is any consideration given to the artist concerned? We are not talking about Metallica and the event would not be a massive rave. Anyone who looked at the profile of the people who purchased tickets could fairly assume that it was not going to be a drunken bash in Croke Park for five nights. Issues that have arisen in respect of other events in the Phoenix Park in the past created great concerns and, I imagine, posed challenges for the city council in managing such events again. The city council deputation is saying that the profile of the event would detail or take into consideration the artist, the type of followers, the fans and all that. Is that what we mean when we are discussing profile?

Mr. Jim Keogan: What I am trying to get across is that the issue is intensification. There is a rather different impact arising from a concert compared with, say, a sporting occasion, which is the established use of the stadium. No one has an issue with that.

Deputy Timmy Dooley: Does Mr. Keegan accept that there would be a different intensification depending on who the entertainer is?

Mr. Jim Keogan: The regulations do not stipulate that we can distinguish between the type of artist. That is profiling that the Garda would carry out in respect of public order.

Deputy Timmy Dooley: Do the regulations require the city council to take a different approach based on the profile of sports events versus entertainment events?

Mr. Jim Keogan: No, the regulations require the authority to have regard to public order. The Garda would profile the nature of the possible attendees at such an event and would put in place the appropriate measures to facilitate that. The use of the stadium for sporting purposes as distinct from concerts is decidedly different. It has a different impact and there is a cumulative effect as well. I am referring to the cumulative effect of five nights in succession up until 11 p.m. The committee members will know that on All-Ireland day there are 82,000 people coming out of Croke Park, but come 6 p.m. it is silent and quiet. However, a concert would extend to 12 midnight or 1 a.m. in the surrounding or immediate areas. That is the impression. These are the factors that we took into account and that is where intensification comes in.

Mr. Owen Keegan: I accept that there are issues of intensification and precedent but we have demonstrated this. In the decision we permitted an increased intensification by allowing three concerts. In total this year there were six concert special events. The highest number in any previous year was four. We have already allowed for that and we have already broken a precedent because the highest number on any previous occasion was four and yet we had licensed six. Therefore, we demonstrated that there would have been scope for them. I suspect that if the issues and legitimate concerns of residents had been properly addressed, there would have been scope for further intensification and a greater breach of precedent.

Chairman: How could they have been properly addressed, in your opinion?

Mr. Owen Keegan: It is a matter for the GAA and the event promoter. I am familiar with other concert venues where there are no objections. There were a significant number of objections. Perhaps the legitimate number was only 250 but that is a significant number of objections. I am aware that there were public meetings at which there was a major outcry about this. No less a figure than the director general has said in public that five concerts was too great an imposition on the local residents. There was clearly a failure. It is a matter for the applicant to undertake the necessary work. It is not for the licensing authority.

Deputy Timmy Dooley: Let us put that in context because we do not want to have another session here next week and bring back Páraic Duffy again. I recall his comments on the television, made in the context of the Mulvey proposals. They were made in an effort to try to mitigate the concerns. The opening statement was that it was too big an ask and therefore something more had to be done. Mr. Keegan referred to the discussions with Mr. Aiken and referred to it being a big ask, but the big ask was somewhat clouded or cotton-wooled in the follow-on statement which indicated that additioality would play a role, in other words, the parties had to do more than they might normally do. In my view this gave an expectation that the matter could be resolved and five licences could issue. That is why we are in the mess we are in. Mr. Keegan has made his comments on my point but again the over-intensification and precedent, the two main issues, should have been identified at the outset and, if they had, we might not be where we are.

Deputy Eamonn Maloney: I welcome the deputation from Dublin City Council. I am impressed by their frankness given the circumstances we are in. I am a Deputy representing the city and county of Dublin. Clearly it is regrettable for the domestic economy and the wider economy that an event like this is not to take place given the amount of money involved, etc. and the fact that the effects would be so widespread in terms of accommodation and restaurants. We all regret that all of it has collapsed and is now not going to happen.

We have been trawling over all this from the beginning, when it began to unwind, but I was never happy with the recommendations or the pressure to involve politicians in the matter. The more politicians became involved, the more it began to fall apart. I am not saying that this was entirely the reason the concerts were cancelled - it is not - but it took it to a different place and it became rather fractious. Second parties and third parties got their backs up about it and I regret that part of it because it went off in a particular direction.

Whatever we say about politicians, Kieran Mulvey, who did his best and always does, and the mayor getting involved, let us be frank about it: the people who cancelled the concerts were not from Dublin City Council. It is as simple as that. I have gone over it and listened to the various contributions. When I was not at the committee I listened closely to the contributions of the city council deputation and the other parties involved, including Mr. Aiken, the GAA, etc., on the monitor. No doubt someone will contradict me, but the original formula was for three concerts. Then, with the excitement of it and because many people like Nashville music, it began to accelerate. Suddenly three concerts became four concerts and then it became five concerts.

I have a simple view about this. As politicians and legislators we should be careful about this given our chequered and recent history in respect of planning and development matters. We have laws in this country, in particular, the Planning and Development Act 2000, which has been referred to. As legislators we have put it to the local authority, in this case, Dublin City

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Council, that it is the function of the council to carry out these laws. We cannot have it both ways. We maintain we have a law that has gone through the Parliament and the Dáil and we have said that local authorities must enforce it and cannot tinker with it. We cannot then ask Dublin City Council to bend the 2000 Act or melt it a little because we want to have additional concerts. Should we turn away from a licensing system that is in place for good reason? Some of the relevant good reasons have been cited. I do not believe we can do that.

Forgive me for using that awful phrase, but we are where we are. The concerts are not going to take place. I regret having to say it, but perhaps as part of the fall-out there is an attempt to engage in the blame game and look for a fall guy. In this case, the fall guys are the people to my right. That is unfair. As I noted at the beginning, the council did not pull or cancel the concerts. Extra tickets were sold to make a lot of money. Let us stop beating around it. There was no licence for any of the concerts and there was no certainty about a fourth or fifth concert. Let us suppose an agent goes off and sells 160,000 tickets for a concert that has no licence. Let us suppose a developer decided to build 500 houses in County Dublin but the foundations have not been dug and he does not have planning permission and despite this he takes the deposits from people. Then all of us here, myself included, would be up in arms. Someone went off selling tickets for concerts, for which no licence had been granted, and the fall-out of that is that everyone has become involved, including, to use Garth Brooks' words, the prime minister. This is an embarrassing situation and there is no point in pretending otherwise, and it is not only embarrassing for Dublin City Council. Let us be honest about this. People should not be trying to pillory Dublin City Council as if the process it operates under should be bent and melted down just because of a wave of interests in two particular concerts. That is my view on it. We should draw back a little bit on this.

Chairman: As Chairman of the committee, I would point out that we did not get involved in this. The Deputy said that politicians got involved and that it began to fall apart. We did not get involved until it had fallen apart. We were due to have a meeting this day last week and we cancelled it in the interests of what was going on between the various parties. Speaking personally, and I am sure I would represent the views of many members but they are able to speak for themselves, we did not want at any stage to melt down or bend any rules, and as a public representative I certainly would not stand over that.

Deputy Eamonn Maloney: I would not suggest that the Chairman would do so.

Chairman: I want to put that on the record.

Deputy Eamonn Maloney: That was my own view. I did not emphatically say that it fell apart because of politicians. I said there was a push to involve politicians, and in regard to some issues, especially planning issues, we should keep our noses out of it. As I said at the beginning, this is regrettable and an awful mess. If nothing else, perhaps we might all learn from it.

On a lighter note, and to take up Deputy Dooley's comment about the age profile of the ticket holders for the two concerts and that they might have nothing more than a couple beers, if he thinks that the people around Nashville are only consuming beer and have never heard of hash or cocaine, he should take a trip there.

Deputy Timmy Dooley: I do not want to get into it. I think I am trending on Twitter. I have insulted Metallica fans.

Deputy Eamonn Maloney: I think Mr. Brooks has used some of the stuff that Metallica

have used.

Deputy Timmy Dooley: I will withdraw any connotations that the fans who go to Metallica concerts are over-consumers of alcohol.

Deputy Eamonn Maloney: No one in Ireland uses hash.

Chairman: Does the Deputy wish to ask a question?

Deputy Eamonn Maloney: No.

Chairman: I will move on and call Deputy Ellis.

Deputy Dessie Ellis: I thank the Dublin city manager and his staff for attending before us. I now represent part of the Drumcondra area which is part of the electoral area. I have attended many meetings down the years not with the residents of Clonliffe Road in the main Drumcondra area but with the residents of Iona Road and Iveragh Road. It is true there is a huge division about what exactly is allowed and what is not allowed. Some residents are of the opinion that three concerts are allowed full stop and that there can be no extra ones. Even seeking to have five concerts was an extra number on top of the three concerts that were allowed. Many residents are of that opinion. Officials have attended meetings where this point has been raised several times and obviously it has been conveyed to Mr. Keegan.

When Mr. Peter Aiken appeared before this committee on Wednesday he said at point 6 of his statement that the event manager for Aiken Promotions called the Dublin City Council manager to inform him of the plans for additional shows and that Mr. Keegan expressed his appreciation for the courtesy of letting him know. It seems the number had ratcheted up from two concerts to three, to four and then to five. Is it true that is the way Mr. Keegan responded on 1 February? That does not seem a strong response in terms of putting out a warning signal to the promoter that those plans were way over the top. Rather it seems a very wishy-washy response. At point 10 of Mr. Aiken's statement, Mr. Keegan mentioned that it would be a big ask. It seems from 1 February to 12 February Mr. Keegan had changed his view and he said that this would be a big ask. It would have been a very big ask to look for five concerts. I do not dispute for one minute that Mr. Keegan made Aiken Promotions aware of the position, but did Mr. Keegan make it clear on every occasion and in no uncertain terms that the holding of this number of concerts would be very difficult in view of the area and the commitments that had been made to residents? I am curious about that point.

At point 24 of Mr. Aiken's statement, he mentioned that he had a telephone conversation with Mr. Keegan and a suggestion was made that there could be a fourth concert. I wonder how it could be said that there was a possibility of another concert and that this process was in motion. One had to make a decision and it appears that one was negotiating at that point as to whether it would be three or four concerts. I find it difficult to understand why that would be said. It seems very wrong.

Was the issue of Garda traffic controls and traffic management discussed at any stage? I have been told that Inspector Tony Gallagher might have attended these meetings. At any of these meetings was it indicated that there could be three, four or five concerts or was it indicated that the Garda would be managing the attendance at one concert a day without giving the figure for the total number of concerts? I do not know what answer was given in that respect. I am curious about that. There were issues surrounding the parking of coaches and buses linking to park and ride facilities. The issue of where buses would park has been a major one in the

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Drumcondra area. The residents have been complaining for years about buses parking in the wrong places and blocking up entrances and areas. Some residents have agreements on parking but it has always been a big issue.

Did Mr. Keegan have any contact, discussions, or conversations with any other promoters or venues regarding the hosting of some of the concerts? There was a suggestion that three could be held in Croke Park and two could be held elsewhere. Who were those promoters or what were those venues? What date did the first contact take place? As part of Mr. Keegan's initial discussions with the GAA and Aiken Promotions, there was mention of the time it would take to build a stage if the concert was to be held somewhere else and whether it could be built within a day at another venue. I find it difficult to understand that it could be built within a day but were there any discussions about that?

Mr. Keegan mentioned that there were 385 objections, 11 of which were deemed bogus and passed on to the Garda, which leaves us with the figure of 374. It was also reported by the Garda that approximately 40% of the submissions received were bogus. That does not seem to be the case from what Mr. Keegan has said. It is a Garda matter that is being investigated. Those figures were mentioned and Mr. Keegan might confirm the number for us.

Is it the case that it is mentioned in An Bord Pleanála's decision on the holding of three concerts in Croke Park in 1993 that it would be a requirement to apply for a licence to hold any more concerts? Mr. Keegan mentioned there is a precedent for four consecutive concerts but it should have been made much clearer that there was no precedent for five consecutive concerts. I do not know whether this message was got across to Aiken Promotions or the GAA but getting it across seemed to be the problem. Is Mr. Keegan satisfied in his own mind that Dublin City Council sufficiently warned Aiken Promotions and the GAA that there would be a very serious issue? It does not appear to me that this was pushed home hard enough.

I know Clonliffe Road. My family home was there until we sold it nine years ago. My aunt used to be involved with the residents and their consultations at the time. Whether we like it, there is a perception that we were overstepping the mark of three concerts in any one year. Given that three concerts had already been held, to have an extra three, four or five would have created in the minds of some of the residents, though not all, that this was going outside anything that was agreed during the redevelopment.

What are we going to do into the future? Are there plans to look at these licensing laws? While we have to look at the area of legislation, does Dublin City Council have plans to look at what needs to be done? Will there be an appeals mechanism or a proper mechanism to scrutinise these decisions? Will a time period for the granting of licences be set that will give enough time for people to get out and sell tickets? The perception from the event organisers and the GAA is that they were adamant they were going to get these concerts, and they would not have gone out and sold the tickets if they did not think that. Will Mr. Keegan tell us what is planned for the future?

An awful lot of people have lost out. It is not just tourism; it is also the people who have stalls and those who bought hats. There was a little industry around the area, including for local businesses. It is a huge embarrassment to this country the way it has gone. I am not blaming Mr. Keegan. I know he followed the process and I understand that. However, we have to do something in pulling all the residents together and putting proper mechanisms in place.

Mr. Owen Keegan: I will respond to the three issues raised by the Deputy but I will make

a preliminary point which is very important. The tickets were all sold before that substantive telephone conversation where I indicated my support. At that stage, if I had said I was totally opposed to this concert, there was a huge problem. I just want to be clear about that. Mr. Keogan will deal with all the contacts we had.

With regard to point No. 6 of Mr. Aiken's submission, the fact is I got a phone call out of the blue on the evening of 1 February to tell me they were going ahead with selling tickets for a fourth and a fifth show. I have to admit I had no idea that there was even a concert coming up or that three had already been sold. I had been recently appointed as city manager and I really had no idea of what the issues were around it. All I told them was: "Thank you for telling me." The contrast in the meeting on the 12th was that I was accompanied by Mr. Keogan and Mr. Downey, who have considerable experience. When it was raised by Mr. Aiken at that meeting, they made it clear it would be a very big ask. I just want to put those two meetings in perspective.

To go back to the issue that arose on 2 July, and we covered this in detail at the last meeting, a decision had not been made. I was aware there was a draft report with a recommendation and I had phoned Mr. Clarke as a matter of courtesy to advise him. He, having consulted with Mr. Aiken and Mr. Brooks, came back to me and said he would not come for three concerts. I felt it would be a major loss to the city and, in an effort to see if something could be retrieved, I did indicate that I would be prepared to discuss with the decision maker whether we could grant four. I indicated at the last meeting that, on reflection, I regret making that intervention but it was certainly motivated by a concern to retrieve the situation and achieve those benefits. A lot of people will say I should not have done that but I did it. It was of no consequence, as it happened, because they were not prepared to come for four either and, on that basis, I told them I had decided to go ahead and make the decision as is.

Mr. Jim Keogan: In the context of the level of contact that took place between the various officers of the city council and the promoters and venue owners, it is fair to say they were of an informal nature and it was more notification than consultation. There is provision in the existing regulations that allows for a formal meeting to take place if it is agreed between, on the one part, the promoter and, on the other, the licensing authority. Such meetings are to discuss a proposed licence application and a draft management plan, without prejudice, which means we can be frank. However, no such meeting was requested and no such meeting took place. We were notified after the event of the five concerts, or certainly after the three concerts had been sold. There had been some informal discussion that there might be two concerts taking place sometime over the summer this year.

It is fair to say from the evidence and the discussion we had here during the week that there is a requirement to review the current legislation and the operation of how we carry on the business of licence applications because of the very sad consequences for all concerned. However, we had to deal with the situation that was before us. We would very much welcome in any review that some consideration would be given to a mandatory pre-application consultation before it is decided to sell tickets.

On the operational side, we have no difficulty with Croke Park from an operational point of view as regards holding events. We have no difficulty with the gardaí. They are very professional and very experienced in how they carry on their operations in securing public order. In the context of traffic management, there was an excellent submission in regard to how they were going to deal with the traffic aspects. They were not the issues that eventually led to the decision we arrived at. They were referring back to the issue of the cumulative effect of the five

consecutive concerts.

Deputy Dessie Ellis: Were gardaí asked whether, if there were three, four or five concerts, there would be a massive impact of any description that they could identify? Was that brought to their attention?

Mr. Jim Keogan: The gardaí confirmed they had no issue with the five concerts from a public order point of view.

Deputy Seán Kenny: I welcome Mr. Keegan, Mr. Keogan and Mr. Downey. Many of the questions I was going to ask have already been asked but it is clear to me that Dublin City Council has applied the planning laws as they are in dealing with this planning application. Nevertheless, Mr. Keegan said he would welcome an independent review of the handling of this decision by Dublin City Council and that is perhaps something that should be considered. As he points out, there is no appeal mechanism so it is not like any other planning application where somebody can go to An Bord Pleanála and the whole issue is reviewed. I take the point that, when one is planning events like this, the decision has to be made within a short timeframe or, otherwise, the event will not take place.

It appears the GAA and the promoters did have an expectation they were going to get the five, for whatever reason. The sale of the tickets before the granting of the licence probably influenced that expectation as well as the fact there had never been an application for five consecutive events of this nature. The impact of that on an area like Croke Park and its surroundings would certainly equate to an over-intensification. The situation we are in now is the first occasion, as far as I am aware, on which an Oireachtas committee has parsed, analysed and gone over a planning decision in this way. Perhaps an independent review would be worthwhile. Currently, the people who purchased tickets are getting refunds and the show is not coming to town.

Chairman: The Minister for the Environment, Community and Local Government, Deputy Alan Kelly, has indicated that he is going to instigate a review on the lead up to the show at the end of the year. It is not a function of the committee to do that.

Deputy Seán Kenny: I know, but am just pointing out that Mr. Keegan has suggested such a review also. It would be worthwhile. The point remains that Garth Brooks cancelled the show. He wanted five and it was all or nothing. That is what it boils down to at the end of the day and the question is what lessons can be learned. Are we going to have more committee meetings such as this in which we go over and back on what somebody said at a previous meeting? At some stage we must bring this to a conclusion. An independent review would be a way to do that.

Chairman: As far as I am concerned, the matter is concluded today. It was important from the point of view of fairness, as I said at the outset of the meeting, on foot of a conflict of evidence, to provide an opportunity to correct matters. That was the main reason I felt today's meeting and the calling back of representatives of Dublin City Council were important. It is not going to go on and on. At the end, I will sum up where we go from here.

Deputy Mattie McGrath: I thank the Chairman for allowing me in instead of Deputy Tom Fleming. I thank our guests for coming as well. I will not rehash anything that has been said, but I watched proceedings on the last occasion from all sides, and one of Mr. Keegan's conclusions was that the integrity of the statutory event licensing framework was paramount and that

he was satisfied that in its assessment of the Garth Brooks concert event licence application, the local authority upheld the integrity of the laws under which we must operate. The laws are made in this House and it is obvious that they must be upheld at all times. Mr. Keegan reiterated on Tuesday his statement that if the integrity of the planning system is to be maintained, it is important that the interests of no single individual or organisation, no matter how cherished a place he, she or it occupies in the hearts of the nation, be allowed to unduly influence the system. He said the genuine concerns of local residents, which were a factor in the city council decision, could not and should not be disregarded, notwithstanding the short-term commercial or economic arguments. That is the due and fair process and citizens must be respected, including those who made submissions. Mr. Keegan said that the decision reached was appropriate and reasonable having regard to all competing interests. He said that nothing that had occurred since the decision was made had changed his opinion that it was appropriate, balanced and reasonable. Finally, he said the city council would welcome an independent review. The Minister is going to hold that and it will be very important.

It is a very poor situation when we have such an onus placed on one individual or planning team with no appeals mechanism. That is the way the law is framed. An appeal mechanism should be provided for. If it had been, we would not be in the embarrassing situation in which we find ourselves, with hundreds of thousands people upset and traumatised and bad publicity abroad with regard to the image of Ireland of the welcomes, following on from The Gathering last year. Mr. Keegan said his understanding of the law was that the local authority could not revisit the decision. He said that if a judicial review examined all procedures, it would find that they were followed properly. He said he would resign if any wrongdoing was found. Is that always the situation in planning? Was there bias? I will bring him back to decisions made in the 1990s, when a judicial review resulted in Dublin ratepayers having to fork out €1 million in costs, including those of the applicant. I quote from a document in my possession.

Chairman: Is this linked?

Deputy Mattie McGrath: It is linked to the comments.

Chairman: As long as it is linked to an issue we are discussing today-----

Deputy Mattie McGrath: It is totally linked to the statement from Mr. Keegan about the necessity of always ensuring the integrity of the process and his statement that if a judicial review found anything untoward or that processes had not been properly followed, he would resign. This is a situation directly linked to that. Can Mr. Keegan clarify his position on the Dublin City Council planning department in 1995? At the time, he was running the planning department and the behaviour of certain senior planning officials gave rise to internal investigations. Written statements were taken from a number of officials regarding alleged punch-ups between senior officials. It is on the court transcript. I hope there were no punch-ups when this decision was arrived at, despite what might be said about the concert-goers. Evidence was given to the court confirming that there were missing and altered planning files. Mr. Keegan will be familiar with the planning irregularities that occurred under his watch at the time and their resolution in a successful judicial review application, record 1996/1239P, which cost city ratepayers close to €1 million. The courts ordered the planning department to erase the altered planning applications.

Chairman: I have just been informed that although we are discussing licensing and related issues, planning is under the remit of the environment committee and the Department of the Environment, Community and Local Government.

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Deputy Mattie McGrath: I am following on from the concluding statement of Mr. Keegan today, when he said the decisions had to be of the utmost clarity and transparency and referred to integrity at all times.

Chairman: We are going down a different road.

Deputy Mattie McGrath: I can leave it on the Order Paper.

Chairman: The Deputy has raised the issue and I will allow the manager to respond if he wishes.

Deputy Mattie McGrath: It is pertinent to the whole discussion.

Chairman: Yes, and the Deputy has made the point. However, it is not within our remit to tease out an issue that happened in 1995 in the courts or elsewhere.

Deputy Mattie McGrath: It refers to the same person. It is very important when he referred to the integrity of the process and said he would resign if a judicial review found anything different. I am citing a court judgment in a judicial review case in which the opposite was found, but he did not resign then. It was nearly five years ago. Can we take this man at his word? That is my problem. There has been embarrassment and a cost to the economy.

Deputy Eamonn Maloney: That has nothing to do with it.

Chairman: I am ending the discussion there.

Mr. Owen Keegan: To clarify, what I said was that if I consented to an uncontested judicial review in a situation where I believed the procedure had been applied fairly, it would be an acknowledgement that it had not been and I would resign. I could not agree to that and remain in my position, as it would be completely contrary to everything I believed and everything I have told the committee. It had nothing to do with the outcome of a judicial review. It would be before we even got to that stage that I would have resigned. I am vaguely familiar with a case, the substantive part of which had taken place before, but I could not respond on it. It is years and years ago.

Deputy Mattie McGrath: I would not expect the good gentleman to respond to the judicial review. That is only fair play and due process, but it is evidence of where it happened that the corporation-----

Chairman: Deputy McGrath has raised the matter.

Deputy Mattie McGrath: Discovery orders had to be made to get reports.

Chairman: I am not allowing this to continue.

Deputy Mattie McGrath: That is very disappointing. What is the point in having officials if one cannot account for their whole records?

Chairman: As is the case with any good referee or chairman, people will be disappointed with my decisions.

Deputy Mattie McGrath: The Chairman is always on the field of play and plays well. I accept what the referee says. I am putting this court case down for the information of the House and in the public domain so that the public will know the past bad decisions and the cost to tax

and ratepayers, which has been airbrushed out of history.

Chairman: I am not allowing Deputy McGrath to go any further. I call Senator Brennan.

Senator Terry Brennan: I thank the officials for coming back in. I agree with the Chairman that it would have been more helpful to have a copy of Mr. Keegan's submission this morning. There are matters that conflict with the submission of the GAA but I believe Dublin City Council has applied proper procedures and has acted to the letter of the law on this issue.

I am not as convinced as some of my colleagues. I wish to refer to the first telephone call that was made by Mr. Keegan prior to the submission of the licence application. Mr. Keegan referred to the conversation he had with the stadium director at Croke Park, Mr. Peter McKenna. During this conversation Mr. Keegan expressly stated that Dublin City Council would support a licence for five concerts. Did Mr. Keegan further request that Mr. McKenna make the decision making process as easy as possible for Dublin City Council? I want a yes or no answer because the director general of the GAA, the highest officer of that organisation, gave evidence to this committee, along with Mr. Aiken, that this is what happened. They stated on the record of these Houses that Mr. Keegan did not see any difficulty with licensing all five Garth Brooks concerts.

The issue of the 11 frivolous objections has been raised and I contend more time should have been spent evaluating the reliability of the objections and their sources. I know the Garda is now investigating the fruitless nature of some of the objections. Perhaps if the staff at Dublin City Council had taken the time more frivolous objections would have been identified. I am aware of a previous case where a person had made 27 or 28 objections in different names.

Mr. Keegan is head of planning and economic development and had a major role in the decision making process but he has a home in the locality where he admits his son lives. Mr. Keegan also admits that people he grew up with, in his own words, made representations. Mr. Keegan admitted at the last meeting that he was unaware of these facts until Mr. Keegan appeared before the committee that day. Can Mr. Keegan explain to the committee why he did not inform the CEO, Mr. Keegan, of these facts and why he remained part of the decision making process? I believe Mr. Keegan faced a conflict of interests and should have recused himself from the decision making process on this matter. I believe the CEO when he says he was not aware of these facts.

My other questions have been answered by the witnesses' submission and in answer to my colleagues' questions.

Mr. Jim Keegan: I replied to various issues relating to conflicts of interest on the last occasion and I have been asked to clarify the situation. I have not lived in the area in question for 35 years. Since 2007 or 2008 I have been part of a delegation that deals with planning matters in Dublin city and during that time I have dealt with a number of planning applications directly relating to Croke Park. I also dealt with three event licensing applications relating to Croke Park directly. In total there were ten applications that directly affected Croke Park and nine of those were granted planning permission, while one was subject to an additional information request.

Including the Garth Brooks concert licence applications I dealt with three such applications directly. I think one was for a Take That concert and the other related to the U2 concerts in 2009. Reference was made to people I grew up with and I would like to clarify that-----

Senator Terry Brennan: I used Mr. Keegan's words.

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Mr. Jim Keogan: When this was raised on the last occasion the suggestion was it might have influenced the decision that I endorsed by way of a recommendation from the officer. The implication was that there might have been bias. My point on that occasion was that in 2009 an equally controversial licence application was before the Dublin City Council relating to three U2 concerts over four nights but the fallout was not as severe as in this case. A public meeting, which I attended, was held in 2009 after the decision was made on the application. My point is, I made my decision on the U2 concerts without any suggestion of bias. I have always dealt with such matters with fairness, objectivity and impartiality and with regard for due process and procedure.

Regarding my interest in the property mentioned, as an officer of Dublin City Council I was required to declare my interest in writing and I did so. My interest in the property is a matter of public record. The previous city manager may not have been aware of my connections to the area but this was never an issue because any professional decision arrived at by a delegated officer in local government is always based on sound assessment, recommendation and reporting. Whether a planning application or an event licence is in question-----

Senator Terry Brennan: Is Mr. Keegan saying there was no conflict of interest?

Mr. Jim Keogan: There was no conflict of interest.

Mr. Owen Keegan: I want to deal with the issue of my phone conversation with Mr. McKenna. I have been very open and I say in my submission that I returned a phone call to Mr. McKenna early in February 2014. I indicated to him that I would be supportive of the Garth Brooks concerts.

Senator Terry Brennan: Was he seeking to hold five concerts at that early stage?

Mr. Owen Keegan: I indicated that I would be supportive of the five concerts. Dublin City Council had previously supported special event concerts in Croke Park and it supports such concerts at other venues across the city because of the benefit to the city. As chief executive officer, I always support events that add value to the city but I gave absolutely no assurance, nor could I have given any assurance at that stage, that all five concerts would be licensed because no event licence application had been submitted in respect of the concerts. Mr. McKenna was fully aware of the event licensing process and must have known that any decision on the licence application would have to follow the statutory process, including the taking of submissions from members of the public and so on. Such submissions had, of course, not been received at that point.

Senator Terry Brennan: Should Mr. Keegan have informed Mr. McKenna from day one that it was most unlikely that-----

Mr. Owen Keegan: At this stage all of the tickets were sold. If I had said at that point that there was no prospect of a licence for holding this event over five nights no matter what measures the promoters and the GAA took, in advance of the event licensing process, they would have said I was being prejudicial. I felt that if serious efforts were made with the residents it should have been possible to get a reasonable degree of resident support to hold the event over five nights. As it happened they were unable to do that. I would have been in a difficult situation, in advance of the event licensing process, if I had said there was no way the city could accommodate such a big event and I did not want to rule it out. I wanted to give the promoters and the GAA the opportunity to address the issues but I gave no assurances.

Senator Terry Brennan: Mr. Keegan did not create any doubt in their minds. Is it the case that, had the promoters and the GAA placated the residents, Mr. Keegan would have convinced Dublin City Council to allow the concerts to proceed because of the economic benefits to the city and country?

Mr. Owen Keegan: I do not know how they interpreted that. I am satisfied that I indicated I would be supportive of the application because this is an appropriate position for a chief executive officer to take on something that will bring such significant benefits to the city. It is a far cry to interpret from that broad support any commitment or assurance that they would get the necessary licence, particularly in advance of the licensing process. Croke Park has been through this process on previous occasions. It is not a newcomer to the process, and it would be aware that there are issues with residents. The onus was on them to bring the process to a successful conclusion.

Senator Terry Brennan: They did not do that.

Mr. Owen Keegan: They got three concerts and they managed to convince us to depart from the previous limit we had imposed. Effectively, six concerts were approved for Croke Park this year. The highest number in any previous year was four. They went a significant way but not the full way.

Senator Sean D. Barrett: An uncontested judicial review seems to be an absurdity. It is like an uncontested Leinster final. If a matter is to be decided and one party does not turn up, he or she will appeal if he or she loses. We might cross that one off the list. The One Direction concerts went well by all accounts but I note that the events were not discussed until nine days afterwards. While I accept that a bank holiday Monday intervened, from my experience of events when I lived in Trinity College, the discussion has to be held far earlier than nine days after the event because otherwise people will have forgotten about it. As Senator Brennan and others have noted, the informality of the procedures cannot be allowed to continue. If one says, "thank you very much, it is in an interesting document", that might be perceived as encouragement but if one says, "I do not like the document", that is prejudicial. There is a huge risk for the officials in this regard. I agree with other Deputies and Senators that the law was upheld and the integrity of the planning process was maintained. Eleven fraudulent submissions out of 384 equates to 3%. Can figures be provided for other cases with which officials have dealt? Reference was made to a survey of 27,000 people. Was that ever submitted to the city council? I have asked whether we could see the results of the survey.

On the issue of tickets being sold subject to licence, it was an absurd idea to allow transactions to take place in late January for a concert that was being held six months later. Somebody should have told the promoters that they cannot take people's money six months before an event which had not yet been sanctioned. That might be something that needs to be tightened up. Consultation should have been made mandatory in advance of the application. The tickets were sold in late January, there was some telephone communication in early February, the formal application was made in April and it was turned down in July. It is an inordinate length of time for people to put their money in somebody else's bank account for an event that had not been sanctioned. They bought tickets for a futures market and the gamble failed. Is there a risk that the city council could be sued by people who will say they participated in this exercise for six months and everybody ended up losing money? Mr. Keegan indicated that similar problems do not seem to arise in respect of Marlay Park and the Aviva Stadium because there are better relationships between promoters and residents in these areas.

Mr. Jim Keogan: In regard to the debriefing that took place nine days after the three One Direction concerts, the regulations stipulate that such a debriefing shall take place within six weeks. It would have been used as a means of informing the operations associated with the proposed concerts.

On the bogus submissions, the information we have to hand from the Garda is that of the sample of 200 submissions we referred for investigation, 64% were deemed to be valid, in other words, they were not contaminated or bogus. I understand the Garda is continuing with its investigation of the matter.

The venue owners carried out an extensive survey of the residential catchment area. I understand that the results of the survey informed the event management plan in terms of introducing mitigation measures that enabled us to grant permission for three concerts. I agree with the Senator that pre-application consultation should be mandatory before tickets go on sale.

Chairman: Does anyone wish to make concluding remarks?

Mr. Owen Keegan: We were delighted to be given the opportunity to appear before the committee again. We did not receive the transcript until quite late and we did not have our submission ready until one hour before we appeared, so I apologise.

Deputy Dessie Ellis: I asked whether there was any discussion with other promoters on the three concerts for which permission was granted.

Mr. Owen Keegan: The city council did not enter into discussions but other parties suggested to us that we might co-promote an event in the Phoenix Park. We said we would be happy to do so. It would reduce the licensing period from ten weeks to five weeks. We had not approached the owners of the Phoenix Park but other people may have done so.

Senator Sean D. Barrett: Did Mr. Keegan mention a period of nine weeks for the post-event evaluation?

Mr. Jim Keegan: No, the timeframe for holding an evaluation is six weeks. The debriefing took place nine days afterwards.

Senator Sean D. Barrett: Six weeks are far too long. People will have forgotten about it. Perhaps some of the angst that was discovered would not be captured if people were asked their opinions of the concerts six weeks afterwards. They would have gotten on with their lives rather than spend six weeks grumbling about a noisy concert.

Mr. Jim Keegan: Subsequent to each night of a concert, the representatives of the various bodies and organisations involved, including the Garda, come together for a briefing on the good and the bad parts of that night's event to identify any issues that need to be addressed for the next night. That happens at the end of each evening of a concert. The Senator was referring to the formal debriefing that takes place within six weeks of the event's conclusion, which identifies major strategic issues that would inform management plans for later events.

Chairman: I thank Mr. Keegan, Mr. Keegan and Mr. Downey for attending the meeting, the aim of which was to establish the chain of events that led to the cancellation of all five concerts in Croke Park. I think we have established that. We also wanted to recognise the fact that a process needs to be put in place. It is evident from what we have heard over the past several days that we need to establish a process for licensing and planning in such a way that hundreds of

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thousands of people are not discommoded, whether they are fans, residents, promoters, venue managers, jobseekers or business people. This entire episode has been an unholy mess. It is clear that there is a major conflict between the evidence presented by the Dublin city manager, Mr. Keegan, and the GAA, particularly Mr. Peter McKenna. It is not a function of this committee to decide who is right or wrong and it may have to be decided in another forum.

I have been contacted by many of the residents in recent weeks. It is clear that they need a more unified voice. It is also clear that the GAA must work on its relationship with them, but there should be one residents group. It is possible. This issue was covered in the Mulvey report. A single voice would result in a more definite and ongoing relationship. I thank the witnesses for attending.

The joint committee adjourned at 3.50 p.m. *sine die*.