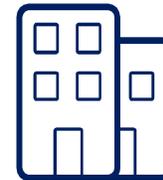




Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

# Decision-Making on Planning Applications



Catherine McConnell

Director of Services Mayo County Council



## Focus of this presentation:



Planning Application and Decision Making Process



Case Studies

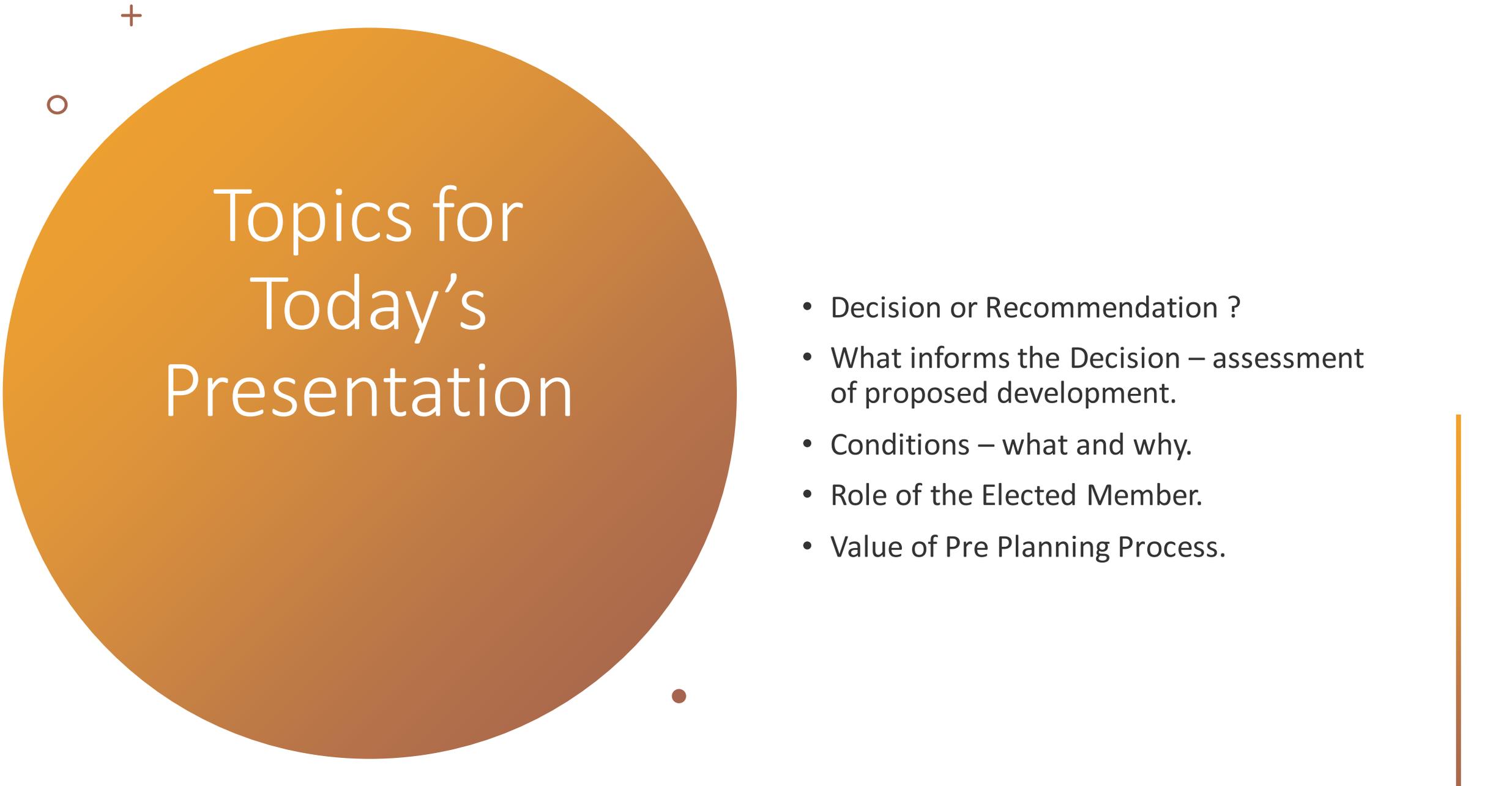


**Takeaways....**



# Who am I?

- Over 25 years experience in Local Government
  - Planner by training
  - Senior Planner in Galway 2006 - 2014
  - Director of Services in Galway 2014-2017
  - Director of Services in Mayo since 2017..responsible for Planning, Corporate Development, IT, Library Service and Westport/Belmullet Municipal District.
  
  - Primary School Teacher since 11th January!
- 



# Topics for Today's Presentation

- Decision or Recommendation ?
- What informs the Decision – assessment of proposed development.
- Conditions – what and why.
- Role of the Elected Member.
- Value of Pre Planning Process.

# Division of Functions

## Reserved Functions for the Elected Members

### Policy Making

Adopting  
statutory  
plans

## Executive Functions for the Chief Executive

### Policy Implementation

Planning  
Applications

Enforcement

---

- Legislative Provisions – Section 34 of Planning and Development Act 2000 (as Amended)

- When making its decision in relation to an application under this section, the planning authority shall be restricted to considering the proper planning and sustainable development of the area, regard being had to—
  - (i) the provisions of the development plan,
  - (ia) any guidelines issued by the Minister under *section 28*,
  - (ii) the provisions of any special amenity area order relating to the area,
  - (iii) any European site or other area prescribed for the purposes of *section 10(2)(c)*,
  - (iv) where relevant, the policy of the Government, the Minister or any other Minister of the Government,
  - (v) the matters referred to in *subsection (4)*, and
  - (vi) any other relevant provision or requirement of this Act, and any regulations made thereunder.
- (aa) When making its decision in relation to an application under this section, the planning authority shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under *section 28*.
- (b) Where specific planning policy requirements of guidelines referred to in the Act differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.

# Preparing for the Application

Importance of pre-application consultation...

Pre-application consultation process (S247 P&D Act)

- What to expect... What it cannot deliver!

Getting the most from Pre-Application Consultations

- Prospective applicants listening to advice given and acting on it
- Importance of a competent agent
- Familiarity with policies and norms in the Local Authority

Recording of consultation and any advices given

- Critical for future file reference – continuity and transparency

# Planning Application Lodgement

Permission Regulations (2001-2018) set out strict procedures to be followed by LA's when initially processing a planning application..

First step is to check that mandatory particulars have been included and a valid application has been made...

OPR Annual Report 2019 shows % of total applications that planning authorities deem invalid varies markedly across LA's..

Issues arising post initial validation...

Importance of regular training/updates/engagement with local Agents.

Once application is "validated" – PA can proceed to assess starting with referrals

# Assessment and Recommendation

- ▶ Prepared by professional Planners with inputs – Engineers, Statutory Bodies, other technical/experts.
- ▶ History of Site or Adjacent Development
- ▶ Screening for AA
- ▶ Examination of proposal vis a vis Development Plan/LAP/ Draft CDP/National and Regional Policy/ Ministerial Guidelines.
- ▶ Considers any 3<sup>rd</sup> Party Submissions, including from Elected Members.
- ▶ Written process on the basis of particulars lodged and documents available on the file and that have a statutory bearing on the decision...
- ▶ Important that there is “no unseen hand” in the process...
- ▶ To ensure integrity and transparency – discussion of specific applications should not take place...DHLGH circulars & guidance
- ▶ Desired Outcome - Robust, evidence based and balanced decision-making.

# The Decision

## Non EIA/AA Cases

- ▶ Assembly of internal reports
- ▶ Prescribed bodies
- ▶ Third Party Submissions, inc. Councillor Reps.
  
- ▶ Recommendation of Case Officer – based on:
  - ▶ Provisions of Development Plan
  - ▶ Documentation provided (inc. Further Info)
  - ▶ Wider policies and Guidelines
  - ▶ Submissions/planning history
  - ▶ The “balanced” assessment

Decision Maker – accepts or directs (rationale for same must be included on file)

## EIA/AA Cases

- ▶ Screening & any Scoping Requests
- ▶ Environmental Impact Assessment Report (EIAR)
- ▶ Prescribed bodies
- ▶ Third Party Submissions
  
- ▶ Recommendation of Case Officer
  - ▶ As per across + “Reasoned Conclusion”
  - ▶ PA’s evidence based assessment of EIAR
  
- ▶ Decision Maker – accepts or otherwise.
- ▶ Communication of decision including environmental aspects – must be published.

# Conditions

Scope governed by S34(4) PDA: quite tightly defined



Requiring specified works

Protecting the environment

Completion & maintenance

Sequencing /timing of works

Works exceeding developments needs (PA must pay for/take charge)

Contributions in accordance with adopted Scheme

Removal of structures/ discontinuance of use

Preservation by record of protected structures removed/altered

# Decision

---

- Made by Chief Executive or other person delegated to carry out such function under Local Government Act 2001.
- Where a function is delegated to another officer, the function shall continue to be vested in the manager but shall be so vested concurrently with the employee to whom it is delegated and so as to be capable of being performed by either such manager or such employee.
- Notification of a delegation under this section or of its subsequent amendment or revocation shall be given to the members of the local authority concerned.
- Any defect in a delegation or the absence of a delegation in respect of a function performed by an employee acting in good faith on behalf of the local authority does not of itself operate to invalidate any action or decision of the local authority.

# Decision

---

- Various models of devolved decision making in Local Authorities..
- What is important..
  - Consistency (are there multiple decisions makers?)
  - Consideration (demonstrate that decision was considered?)
  - Transparent (any deviation from recommendation ? Has process for same been followed?)
  - Timely (Decision is made within statutory timeframe?)

Just over **32,000 planning applications** submitted to local authorities in 2019 and while there were variations in the levels of invalid planning applications, **almost 90%** of valid planning applications were approved.

- 
- Example 1 - Facility for the treatment and disposal of Japanese Knotweed.
  - Important service which could help to manage the control of Knotweed (invasive species).
  - High level of public concern – public submissions on file and verbal enquiries by elected members
  - Environmental considerations – adjacent to a water course feeding into SAC
  - Balance of public submissions / environmental considerations
  - Policies and objectives in the County Development Plan
  - EIA and AA carried out – reports on file. Planning Authority applied the precautionary principle.
  - Decision maker accepted the Recommendation on file.
  - Decision upheld by An Bord Pleanala after 1<sup>st</sup> Party Appeal.

- 
- Example 2 – Single Dwellinghouse in a Designated SAC.
  - Proposed new dwellinghouse in Mullet Peninsula SPA (corncrake)
  - Natura Impact Assessment required.
  - Site located in extremely sensitive coastal location
  - Design – guidance in CDP and at pre-planning meetings
  - Compliance with the CDP
  - Demonstration of Local Housing Need
  - Compliance with Wastewater Standards
  - Site Suitability Assessment

- 
- Example 3 – 10 year Permission for Community Windfarm in Killala.
  - Previous Permission – granted by MCC and ABP – now expired.
  - 14 Different Landowners.
  - EIAR and AA required due to threshold – 5 turbines or exceeding 5MW and adjacent cSAC and SPA.
  - Specific Objectives in current CDP – Renewable Energy Strategy
  - Statutory Consultees – An Taisce, NPWS,
  - Internal Reports – Roads, Environment, Archaeology, Ecology,
  - 3<sup>rd</sup> Party Submissions – all positive!
  
  - Schedule of Conditions addresses monitoring, mitigation, construction phase conditions, EIS mitigation measures (applicable if proposed in EIS), Development Contributions, Special Contribution for Road improvements, Bonds.

---

## Elected Members as Decision Makers – the Part 8 process.

- Mechanism by which a Local Authority grants Planning Permission for its own developments. Section 8 of P&D Regulations.
- Same principles apply in making the recommendation.
- Members are the decision makers and are charged with the same considerations – proper planning and development and provisions of the Development Plan and requirement to have regard to the policies and guidance of the Minister.

# Recap...



Good development plan is the basis for effective decision-making...



Good understanding of respective roles of Exec and Elected Rep...



Effective, transparent internal systems and procedures for decision-making key...

# Role of Members



Separation of powers: executive vs reserved



Protects members & integrity of process



Mechanism to express written submissions



Meaningful pre-planning meetings are valuable



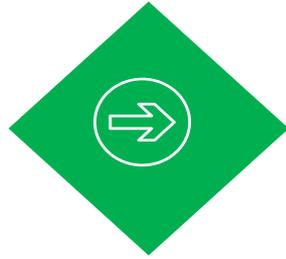
Avoid reference to personal circumstances



Avoid discussing applications at council meetings



Pre-decision meetings ultra vires



## Takeaways...



**Principal role is in setting the vision in the plan is key for effective decision-making but role as advisor / representative is important and valued.**



**Well informed applicant – well informed agent – well informed public representative – better outcomes!**

# Thank You

---

