



25 SEP 2018

Notice of Appeal Form
 Appeal to the
 Forestry Appeals Committee

Official Use Only
 Received within 28 days of date of
 decision? Yes/No
 FAG Ref No: _____
 3rd Party Yes No
 Checked by: _____

Appellant Details

IMPORTANT NOTE: IF THERE IS MORE THAN ONE PERSON MAKING AN APPEAL SEPARATE APPEAL FORMS MUST BE COMPLETED BY EACH APPELLANT.

| | |
|---|--------------|
| 1. Name of Appellant: | Neil Foulkes |
| 2. Address of Appellant: (include Eircode where available) | |
| 3. Telephone Number: | |
| 4. Email (where available): | |

Details of Department decision to be appealed
A SEPARATE FORM MUST BE COMPLETED FOR EACH DECISION

| | |
|--|--|
| 5. Decision Type ¹ : Please tick the appropriate licence type: | Afforestation <input type="checkbox"/> Felling <input checked="" type="checkbox"/> Forest Road Works <input type="checkbox"/> Aerial Fertilisation <input type="checkbox"/> |
| 6. Decision Reference Number ¹ : | Afforestation, Forest Road Works: (CN): _____ Felling Licence: (TFL): <u>00109218</u> or (GFL): _____ Aerial Fertilisation (AFA): _____ |
| 7. Date of Decision under appeal ¹ : | 8. Town land and County: |
| <u>31/08/2018</u> | DERNAHELTY MORE / LEITRIM |
| 9. Please confirm if you are the APPLICANT ² issued the decision at 5, 6 and 7 above: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |

10. **Appellant's Grounds of Appeals and Statement**
 The Appellant must complete Section 14 overleaf by setting out the full grounds of appeal including a statement of the facts, and reasoning on which they intend to rely. The Appellant must also include with their appeal any documents, particulars or other information relating to the appeal that they consider necessary or appropriate.

11. **Oral Hearing**
 11.1 (a) Do you wish to have an oral hearing in relation to your appeal? Yes No
 (b) The Appellant may choose to be accompanied by a representative(s) at the oral hearing. Will you be accompanied by one or more representative(s) at the oral hearing? Yes No HOPEFULLY
 NOTE: The names and professions of any such representatives must be provided to the Forestry Appeals Committee when requested.
 NOTE: Appeal hearings are held by the Forestry Appeals Committee at the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois or in another venue in Portlaoise. Any fees that any representative(s) may charge or any expenses incurred by the Appellant or their representative(s) in attending an appeal hearing shall be borne by the Appellant or their representative(s).

11.2 The Appellant shall be advised of the date, time and location of the oral hearing. The Appellant shall also receive a list of the Department representatives attending, the Forestry Appeals Committee members hearing the appeal, and any other person(s) attending.

¹ Available on DAFM website <https://www.agriculture.gov.ie/forests-service>
² Applicant refers to the person who made the application to the Department of Agriculture Food and the Marine for the licence, approval or entry in a register that is the subject to this appeal.

25 SEP 2018

12. Processing of your appeal and sharing of information

- 12.1 Under Regulations 6 of the Forestry Appeals Committee Regulations 2018 and the Data Protection Acts 1988 and 2003 the information provided by the Appellant in their appeal, including personal information, shall be processed for the sole purpose of dealing with the appeal.
- 12.2 Information relating to appeals shall be retained by the Forestry Appeals Committee for a minimum of 7 years.
- 12.3 The Appellant shall be provided with a statement from the Department on the appeal.
- 12.4 Please see the Agriculture Appeals Office website www.agriappeals.gov.ie for further detailed information on data protection with regard to the processing of personal data by the Office.

13. Appellant's Grounds and Statement (additional pages may be included if required)

ACCOMPANYING DOC'S WITH EMAIL

14. Declaration

see my email.

By signing the declaration below you are making an appeal against the decision referred to in this Notice of Appeal Form and declaring that your appeal details may be provided to other relevant parties and may be included in the record of and read publicly at any oral hearing held for this appeal. The rules and procedures governing appeals are available on the Forestry Appeals Committee website www.agriappeals.gov.ie/forestryappealscommittee or on request: Tel: (057) 863 1900; Lo-Call: (076) 106 4418; Fax: (057) 866 7177; e-mail: forestry@agriappeals.gov.ie

I declare that the information contained in my appeal is true and accurate and that I have read and accept the rules governing the submission and processing of appeals by the Forestry Appeals Committee including Section 14 A of the Agriculture Appeals Act, 2001, and the Forestry Appeals Committee Regulations 2018.

Signature of Appellant: N. Faulkner Date: 14-9-18

The completed Notice of Appeal Form and any additional documentation must be sent to:
The Forestry Appeals Committee, Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois, R32 DTW5.

Important

A scanned signed copy Notice of Appeal Form may be submitted electronically to the Forestry Appeals Committee (email address above) and followed by submission to the Forestry Appeals Committee of the original Notice of Appeal Form signed by the Appellant. Appeals may be submitted by post in which case proof of postage should be retained. The only acceptable proof of postage shall be an Express Post or Registered Post receipt. The Forestry Appeals Committee will not accept any claims that an appeal was lost in the post in the absence of the required proof. If you do not receive any acknowledgement of your appeal please contact the Forestry Appeals Committee.

Appeal against Felling Licence TFL00109218

Submission

There are a number of areas where I consider the decision of the Minister is wanting in respect of the issuing of this licence.

Guidelines not Requirements

Condition (a) of the licence refers to a series of departmental documents. The majority (if not all) of these documents are guideline documents only. The licence, as it stands, only requires the licensee to carry out works in accordance with guidelines which are advisory not mandatory. In the absence of actual 'requirements' in these documents the licence needs to be more specific about actual environmental and social protections specific to this site.

Aerial Fertilisation

Condition (d) of the licence should be modified to state that no aerial fertilisation of this site will be permitted. This site is clearly not appropriate for aerial fertilisation and there is no reason why the licence should not state this. The licensee and other interested parties should be left in no doubt about this fact.

Size of Clear Fell – impact on ecology and the landscape

Below is reproduced a statement on public reassurance from the Forestry and the Landscape Guidelines indicated in condition (a) of the licence:

It is important to inform and reassure the public, including the local community, interest groups and adjoining residents, that disturbance arising from felling is temporary in nature and that the forest will be replanted within a short space of time. Such reassurance can be communicated using well designed signage and through informal dialogue. Such communication clearly demonstrates that the land owner cares about local concerns, and helps to raise the level of public awareness and understanding of forestry operations and practice.

The public is not reassured by clear-felling. I would not be reassured by well designed signage. I object to the tone of this statement which suggests that people's opposition to clear-fell is based on a lack of understanding or ignorance which can be corrected by information and dialogue with those in the business. This is totally contrary to the provisions of the Aarhus Convention which acknowledge the positive contribution that can be made by informed public participation in the decision making process.

Clear felling will involve a significant habitat and landscape transformation. It is temporary deforestation and is a management model that should be avoided where possible and where it is necessary the scale of works in a given area over a particular period should be limited.

There is a reason that there is a general public antipathy towards clear-felling that goes beyond mere landscape considerations – initiatives like the Save Leitrim campaign have not arisen in a vacuum. It is intuitive; people instinctively know that modification of their territory on such a scale is destabilising - to their environment, to the ecology of their habitat. At the landscape level people have a perceptiveness to factors that pose a risk to their security. This is a genuine, understandable and justifiable innate human concern.

The Forest Service, which is a body that should be serving the public, should be receptive to the concern not telling the public not to worry – 'we know best'. Forestry standards that are more stringent in terms of sustainability (FSC for example) are moving away from clear-felling as a management model – it should be the exception, not the rule. The Irish Forest Service and forestry sector is behind the times.

Also, the lands involved are not only individual human property, human resources or part of a human landscape they are providing (a limited) habitat to some species which should be respected. Is the forestry sector so de-sensitised and numb to the needs of other species that we share this planet with that it can sanction habitat transformation on this scale? Although it is open for the licensee to phase the works over the period of the licence there is nothing in the conditions that would prevent all of the works being carried out in one block and being realistic that is the most likely scenario.

Un-numbered there is a sensitivity and empathy for nature that is innate in the human consciousness. This sensitivity and empathy is a deeper form of pragmatism than that of the basic pragmatism of the market place. It is a false economy to damage the earth, soils and water to facilitate commercial activity.

The Objectives for felling in the Code of Best Forest Practice are stated as

- Maximise volume/value conversion.
- Ensure operator safety.
- Facilitate efficient extraction.
- Minimise site and soil damage and disturbance of aquatic zones, archaeological sites, wildlife habitats and other sensitive areas.
- Achieve a cost-effective operation.

There is a clear bias here: Maximise and prioritise economic considerations whilst trying to limit the environmental damage to a minimum. Protection of the environment – the support system for all life – should not be left to mitigating action; it should be the priority. If commercial activity cannot function without damaging the environment then it is not sustainable.

What happens where there is a conflict between these objectives? **What level of soil damage, aquatic zone, archaeological site, wildlife habitat or sensitive area disturbance is permitted where any of these factors might impinge on the cost-effectiveness of the operation?**

In this instance 'damage' and 'disturbance' are relative terms. To know if there is damage or disturbance you need to know what 'undamaged' and 'undisturbed' are. To measure whether or not any damage or disturbance to any of the factors will or has been caused will require a baseline record of the factors involved against which an assessment or comparison can be made. The licence needs to be specific on such issues and actual metrics should form part of the licence conditions, not vague aspirational criteria. Unless there is clarity on these points how can any argument that the lands are being managed sustainably be justified?

I consider the area of 11.35 hectares earmarked for clear-felling to be too large to clear fell in a single coupe and this will create a significant ecological and landscape impact. Whatever limited ecology has developed in the thirty years since planting will be decimated by the clear-felling of such a large area. Under FSC Standards in the Netherlands the maximum size for a clear-fell coupe is 5 Hectares. In the Czech Republic, where clear felling is discouraged, the maximum average area of the clear felling is limited to 0.3 ha and the maximum area of a single clear fell is 0.9 ha. This should give the Appeals Committee some indication of how far this Irish policy in general and this licence in particular, deviates from international standards in terms of best practice. Although Irish standards may permit greater areas this does not make these higher limits targets. It is open to the Forest Service to apply lower thresholds on a case by case basis.

It is my view felling works should be staggered over a number of years with a maximum coupe size of 5 hectares per year. I expect to hear arguments about needing to clear fell because of lack of stability / exposure to the risk of wind throw, etc. If this is a problem, why issue a replanting order that will most likely result in the same situation occurring again in the future?

Condition (i) of the licence relating to badger setts requires no survey for badgers. Why is this? The licence should require a survey for badgers by an appropriate authority. The 30m buffer zone should be a requirement, not a recommendation, for any setts / latrines identified.

Given the situation regarding the possible use of the site for nesting by a common buzzard there should be a requirement in the licence that before any felling works can take place between 1st March and 31st August that a survey is required for any bird nesting activity. Such a survey must be carried out in an appropriate timeframe by a qualified ornithologist. See my comments regarding the Birds Directive.

Mitigation conditions like condition (i) should clearly specify the appropriate authority to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom.

Given the size of the clear fell why is there no requirement for a survey for bats which are a protected species? There is an old dwelling and outbuildings on the site which could well be providing roosting habitat for bats which would be disturbed by clear felling operations.

Red squirrels are present in the area. Clear felling such an area will result in disruption for this population. Again, advice from an appropriate authority should be sought as to the impact of clear-felling such an area.

Clear-cutting has negative effects on the ground and bottom flora, as well as on soil organisms like fungi, bacteria and certain soil animals. [1]

Greater reassurances are required that the ecology of the site, pre and post felling have been considered.

[1] Granhall U. (1992) Clear-Cutting of a Scots Pine Forest — Effects on Soil Biology. In: Teller A., Mathy P., Jeffers J.N.R. (eds) Responses of Forest Ecosystems to Environmental Changes. Springer, Dordrecht

Birds Directive

Article 5 of the Birds Directive prohibits, in respect of all wild bird species, *inter alia*

(b) deliberate destruction of, or damage to, their nests and eggs or removal of their nests;

(d) deliberate disturbance of these birds particularly during the period of breeding and rearing, in so far as disturbance would be significant having regard to the objectives of this Directive;

A ruling by the European Court of Justice (Case 412-85) has indicated that the term 'deliberate' relates to the deliberateness of an action (not just the deliberateness of damage, destruction or disturbance) where that action, by its very nature, can reasonably be considered to result in the type of damage, destruction or disturbance referred to.

Clearly the deliberate action of the clear felling of trees from 11.35 Hectares of land presents a risk to any birds in the area in respect of these two provisions (including neighbouring areas in respect of Article 5 (d)). The licence has identified one particular species (common buzzard) but others may well be at risk. In order to conform with the Birds Directive this licence **AND ALL OTHER LICENCES RELATING TO ANY FOREST MANAGEMENT THAT COULD OCCUR DURING THE PERIOD OF BREEDING AND REARING FOR WILD BIRDS** should require a survey to be carried out by a qualified ornithologist to identify conditions or circumstances that could result in a breach of Articles 5 (b) & (d) of the Birds Directive. The licence should also stipulate what actions are required if any such conditions or circumstances are noted. The current licence does the latter in respect of the common buzzard (although no survey is required which is a serious omission in respect of wildlife protection) but the nest of any wild bird species (unless subject to exemption - certain corvids, for example) is legally provided with the same degree of protection under Article 5. I am fully aware of the provisions of both Section 22 and Section 40 of the Wildlife Acts but would remind the Appeals Committee that, constitutionally, European Law takes precedence over National Law.

Harvest Plan / Extraction / Consultation

The Code of Best Forest Practice states

“Load sizes specified in the harvest plan or recommended by manufacturers should not be exceeded. Overloading will damage extraction machinery, will increase the risk and severity of soil compaction and rutting, and may lead to machine instability.”

There is no reference in the felling licence or application to a harvest plan.

To protect against the risk of soil compaction and rutting the licence should require the production and approval of a Harvest Plan which includes a load size limit. Also, I would be interested to know how the appellant intends to draw trees from the 'far' side of the stream without having a negative impact on the watercourse, stepping stones, old dwelling and mature broadleaf trees. The Harvest Plan should indicate where machinery will cross the watercourse and what route will be used to bypass the features referred to.

The plantation is approximately mid-way along a narrow, single lane boreen. The lane and the immediately adjoining local road network are totally unsuitable for the type of traffic that will be required to extract the timber (this includes un-laden timber trucks) and an alternative to using this road must form a condition of the licence. I find the condition (h) in the licence issued to

“Contact Leitrim County Council prior to felling re haulage routes, timing and volume.”

to be totally inadequate in this regard.

The condition only requires the applicant to contact the Council; it does not require any agreement to be reached. Once contact has been made, irrespective of any outcome of the contact, the licence condition has been met. This does not satisfactorily address the concerns. The licence should require written agreement between the applicant and the Council (copied to Forest Service (FS)). Any breach of the agreement would be a breach of the conditions of the felling licence. Condition (e) of the Licence invokes Section 13 (10)(a) of the Roads Act 1993. This is reactive rather than proactive. Prosecutions under Section 13 (10) (a) are rare. It

is too costly a process for a Local Authority to initiate. The result is that the Licence holder is unlikely to have to bear the cost unless he / she causes a very significant level of damage. The cost and brunt of minor damage will be borne by the local community and the taxpayer. Surely prevention is better than cure.

Local communities are impacted by felling operations, particularly by traffic. The applicant should be required to consult with and reach agreement with local residents regarding management operations. This should form part of the written agreement with the Council. There is one inhabited dwelling immediately adjacent to the site (within 20m). What consideration has been given to the needs of the occupant?

Some factors which need to be considered

- The road leading west from the plantation has a number of dwelling houses along it including two that are almost immediately adjacent to the road (Photo 2).
- The road to the east has a dwelling and farm buildings which would require access. The connecting road from there is single vehicle width boreen and contains steep hills and one very acute bend.
- The road along which the timber is likely to be extracted is used by a local equestrian business for giving inexperienced young horses schooling on a quiet road. Local residents are aware and considerate in this regard. The width and length of forestry lorries would create issues. Passing would be unsafe and virtually impossible; drivers of forestry vehicles are less likely to be aware of the circumstances.
- Japanese Knotweed is growing adjacent to the road to both east and west (Photo 1). The width and volume of forestry traffic could pose a risk to the spread of this alien invasive species.

There is an alternative extraction option which should be considered. The applicant should discuss with Coillte about creating a section of forest road (approximately 350 m) which would link with an existing Coillte forest road to the north of the plantation. This would permit extraction through recognised forestry extraction routes and would minimise damage and disturbance.

Internal Hedgerows

The following statements are from the Department's Forest Biodiversity Guidelines;

Existing hedgerows, areas of low-lying scrub, pockets of native broadleaf cover and individual old trees should be retained to form wildlife corridors between forest patches. These corridors are essential as they facilitate the movement of both plants and animals between forests, providing biological continuity and connectivity.

Retained habitats may require management. Examples of proactive management for different habitats are as follows:

- *gap planting and layering, to rejuvenate declining hedgerows.*

The area of the site was formerly agricultural land sub-divided by numerous hedgerows. Due to the shading effect of the spruce the hedgerows have been severely degraded; many plants are dead or moribund, there is little or no ground flora and hedge banks have become destabilised leading to the risk of siltation (Photo's 6, 10 & 11). Photo 10 in particular shows a significant amount of dead hedgerow material lying across the drain. Clearly the Forest Biodiversity Guidelines have not been followed in this plantation. The felling licence is an opportunity to rectify at least some of the damage caused over the last 30 years.

What remains of the hedgerows is tall, weak growth that would be left very vulnerable to the wind by clear-felling of the adjacent trees. This would pose a further risk of destabilisation of the hedge banks with the concomitant risk of siltation (Photo 14).

The licence should contain a condition for key hedgerows to be identified and a management plan for their renovation and subsequent management.

The south-eastern boundary is a Townland Boundary and extra care should be taken not to damage or interfere with this significant landscape and heritage feature.

At the very minimum, if exotic conifers are re-planted, all hedgerows within the clear-fell area should be given a minimum buffer of 5m from the edge of the hedgerow with a minimum of the first two rows adjacent to the hedgerow planted with broadleaf species.

Hedgerow boundaries that were existent on the first edition Ordnance Survey map (c.1837) (Heritage Hedgerows) should require inspection and assessment of their condition carried out using the Hedgerow Appraisal System, with mitigation works stipulated where the hedgerow has been degraded. Replanting here should require a minimum of a 7m buffer (as per Iremonger, BIOFOREST Report) with the minimum of the first two rows adjacent to the hedgerow planted with native broadleaf species. There should be a requirement for the re-establishment of any native hedgerow that has been significantly degraded by the plantation.

Old Dwelling and Mature Trees

There is an old dwelling house and mature deciduous trees (predominantly beech) within the area (Photo's 9 & 15). The licence should contain a condition that the building and trees are cordoned and protected during site works and that a management plan for the trees be produced that ensures their conservation. They will be particularly susceptible to windthrow as a result of the clear felling. The area of the 'stepping stones' as marked on the OS map should be specifically protected under the conditions of the licence (Photo 7).

Section 6 (2) paragraphs (g) and (h) of SI 558 (2010) offer specific options to the Minister in respect of licence conditions for the hedgerows, old dwelling and mature trees.

Replanting species

There is, already, an excessive amount of exotic conifers in area. Replanting should favour native, broadleaf species. Remove the existing trees but replace them with native broadleaves; bring a little balance back in to the area. The following are strategic objectives of DAFM's Felling and Reforestation Policy (May 2017)

1. To foster the efficient and sustainable development of forestry
2. To increase quality planting
3. To promote the planting of diverse tree species

The FS needs to justify how the replanting requirements of this licence will be consistent with these objectives. How is replanting with 90% Sitka Spruce for clear felling a sustainable practice? The natural hedgerow vegetation of the original site has been decimated over the first 30 year rotation by the dominance of spruce. What metrics are available to show that the plantation has not had a negative impact on any other sustainability criteria? 'Sustainability' is not just a word that can be thrown out as a marketing tool; it is a fundamental principle and one that needs to be substantiated. Given the condition of the hedgerows what arguments can the FS make to justify the sustainability of the biodiversity of the plantation both currently and in the future?

Replacing Sitka Spruce with more Sitka Spruce is not increasing the quality of the plantation, nor is it promoting the planting of diverse tree species in any meaningful way. From a commercial perspective there is only one intended crop species from the proposed replanting – that does not qualify as promoting diversity or sustainability. The FS should be encouraging greater diversity in the species planted with a much reduced dependence on Sitka Spruce.

The Dutch FSC Standard states that the size of individual forest stands within a plantation should not exceed 2 hectares. Planted even-aged monocultures are not the goal of the close-to-nature forest management in the Germany or the Czech Republic. Their environmental impact is considered to be negative. Natural species are given preference over exotic species.

I have included an aerial map showing an approximate 2km radius of the site. Even a casual look at the map will show an area of coniferous plantations well in excess of 20% of the area, probably nearer to 25% or more. The aerial map is a few years out of date and there are additional sites that have been planted with predominantly conifers in the interim period and there are further sites with afforestation applications for conifers pending approval. Within the area encircled I am aware of only a few areas of actual broadleaf planting; one area of approximately 2.15 hectares is almost adjacent to the site in question (Photo 3). In total the broadleaf planting within this radius (approximately 5.3 hectares) is less than a half of the clear fell area of this site alone. Why, if a near adjacent site can support broadleaves can the site in question not do so? To the best of my knowledge the intervening area is owned by Coillte and there is an opportunity here for the creation, over time, of a decent sized block of deciduous woodland in the area, something that does not exist at present.

The 10% 'Additional Broadleaves' specified for replanting is little more than tokenism; a bare minimum replanting proposal. Two or three rows of broadleaves around a block of Sitka Spruce will not amount to

anything meaningful from a landscape or ecological perspective. Just have a look at what exists in the area already (Photos 4 & 5). The broadleaves are shaded out and weakened by the faster growing Spruce.

If this site was being afforested for the first time there would be a requirement for 15% of the area to be retained for biodiversity enhancement. Why does the felling licence not make an equivalent requirement?

The objective of the replanting should be to create a forest, preferably of native species, not another round of timber cropping which does not meet social and environmental objectives and may well be economic folly too given that the world of 30+ years hence is likely to be very different to the one we inhabit now. That world will need forests but the place for a crop of low quality timber that requires significant energy input to harvest, transport and process is far less assured. The margins on the Sitka Spruce model are tight even under today's economic conditions – how will the sums work out in 30 years time when fossil fuel prices may well be significantly higher? The immediacy and enormity of the challenges of climate change require a different vision for treecover in the landscape; one that moves from a rotational clear-felling of a single exotic species plantations to continuous cover of diverse genuine woodlands and forests producing a diverse range of forest products. 90% Sitka spruce, 10% ABS will not achieve this – it is just pressing the replay button on the same old song. This is long-fingering the problem. Silvicultural simplicity and expediency should not be the precedent here. There is too much at stake and although this may be only one small site the little drops and the ocean are the same thing.

This plantation was established in 1988. The world of 1988 was very different from that of 2018 – that world had no internet, no mobile phones, no widespread knowledge of impending climate challenges or biodiversity collapse. To put some perspective on this, the term 'biodiversity' first appeared in print in 1988, the year these trees were planted. Anyone who thinks that we can carry on pretty much as normal for the next thirty years is burying their head in the sand so to prescribe a business as usual replanting requirement is to deny the reality of the situation.

There should be a stipulation that any native species planted should be of native provenance. Natural regeneration of native species should be encouraged. This is happening already where there is the smallest amount of light reaching the plantation floor (Photo 13). Where there is a little light there is plenty of wood sorrel (*oxalis*) growing (Photo 8). This is an old woodland indicator species. The Irish name for Dernaheilty More is Doire na hEilte Mór which suggests that this area was once part of a great oak wood. Consideration should be given to allowing part of this site be given an opportunity to regenerate naturally.

Where the stream exits the plantation on the eastern edge of the site there are some fine hazel growing (Photo 12) – a steep slope leads down to the stream and replanting here with an area of hazel with a few oak for canopy would be an option that should be considered as it would be in keeping with current and historical aspects of the land.

We are in the sixth wave of biological extinction on this planet which is experiencing its highest rate of species die-offs since the loss of the dinosaurs 65 million years ago. This loss of biodiversity predominantly is caused by human activity. Scientists estimate we're now losing species at 1,000 to 10,000 times the background rate, with literally dozens of species going extinct every day [2].

The Forest Service should be aiming for greater diversity and greater species resilience not perpetuating the homogenisation of the landscape with alien exotic species. The world of our children and our children's children demands that we break out of this mono-cultural mindset. Diversity increases the options for the next generations. Why would we want to limit the options for our descendents?

This licence is an opportunity to actually establish a forest not just to repeat the process of creating a timber plantation. What is needed is not a cut & paste licence but a whole new thesis.

[2] Chivian, E. and A. Bernstein (eds.) 2008. Sustaining life: How human health depends on biodiversity. Center for Health and the Global Environment. Oxford University Press, New York.

Climate Change

Clear-felling is temporary deforestation – there is clearly an initial negative impact on carbon storage. The elephant in the room in terms of climate change is fossil fuels. The Government has recently passed a Bill divesting from public investment in the fossil fuel industry. The threats of climate change beholden society to keep fossil fuels in the ground and yet the Sitka Spruce model of fast grown poor quality product is highly reliant on fossil fuels – establishment, harvesting, transportation (mostly of bound up water), processing and distribution. How is the forestry sector going to fuel its future? This is the question that no-

one seems to want to answer, but it is a question that must be considered in respect of the replanting schedule when awarding this licence. Sustainable forest management must be considered in terms of the context of the society in which it operates. A sustainable system of forestry must be powered by a sustainable source of fuel or its pretensions to sustainability are unsound. The replanting schedule should be predicated on the needs of the future not the present. Since that future is uncertain why put all the eggs in the Sitka Spruce basket?

Chemical Use

Replanting with Sitka spruce increases the risk of damage from pine weevil which brings the associated risk of chemical spraying in the area (notably with Cypermethrin). This chemical is prohibited under FSC Standards due to its high toxicity. The people and the ecology of the area are put at risk by the use of this (and similar) toxic chemical. This is unacceptable; why should the people of this area have to accept a lesser standard? The FS should change the replanting species requirements such that the use of toxic chemicals is not necessary.

The above should be viewed in the context of the following statement from a recently published EPA Report - Role of Passive Sampling in Screening and Monitoring of New and Emerging Chemicals;

“Cypermethrin is commonly found to enter aquatic ecosystems as a result of soil erosion and run-off from agricultural and forestry applications.”

This is in an area where some dwelling houses are operating off private wells.

The objective of the Forest Service is *to develop forestry to a scale and in a manner that maximises its contribution to the national economic and social well-being on a sustainable basis, and which is compatible with the protection of the environment.*

This licence, if not revoked or significantly amended, represents bad news for the local community, human and non-human and is not consistent with the objectives of the Forest Service indicated.

Aarhus Convention

It is my view that the Forest Service procedures for the issuing of this licence and Felling Licences in general are not in conformance with Articles 3 & 6 of the Aarhus Convention.

There is no evidence that Article 6 (5) has been adhered to.

Each Party should, where appropriate, encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit.

The licence / application does not include the following information as required under Article 6 (6):

- (a) A description of the site and the physical and technical characteristics of the proposed activity, including an estimate of the expected residues and emissions;*
- (b) A description of the significant effects of the proposed activity on the environment;*
- (e) An outline of the main alternatives studied by the applicant;*

Article 6 (2) states:

The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner,

There is no local, on the ground notification to the local community of the issuing of the licence and their right to appeal against the decision.

I argue that by failing to provide for any alternative means of public notification other than through its website the Department has failed to ‘adequately’ and ‘effectively’ inform the public of the activity in question.

The second pillar of the Aarhus Convention is the public participation pillar. It relies upon the other two pillars for its effectiveness — the information pillar to ensure that the public can participate in an informed fashion, and the access to justice pillar to ensure that participation happens in reality and not just on paper. The public participation pillar is divided into three parts. The first part concerns the participation of the public that may be affected by or is otherwise interested in decision-making on a specific activity, and is covered by article 6.

The preamble to the Convention states

[8] Considering that, to be able to assert this right and observe this duty, citizens must have access to information, be entitled to participate in decision-making and have access to justice in environmental matters, and acknowledging in this regard that citizens may need assistance in order to exercise their rights.

If the only way that people can know of a felling licence decision is through the routine monitoring of a particular Department webpage which is not generally well known then the Forest Service is failing in its duty to provide assistance to citizens on their right to participate in the decision making process. The Aarhus Implementation Guide provides some detail;

“Basic human rights related to the environment and basic civic responsibilities are interwoven, but both the rights and the responsibilities may remain unfulfilled as long as persons do not have the capacity to act in civil society. This may involve the establishment of proper institutions, the guarantee by the State of clear and transparent frameworks for action and, in some cases, affirmative assistance programmes to level the playing field. This point is revisited in more detail in article 3, paragraphs 2 and 3”.

2. Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters.

3. Each Party shall promote environmental education and environmental awareness among the public, especially on how to obtain access to information, to participate in decision-making and to obtain access to justice in environmental matters.

Paragraph 12 of the preamble states

Recognizing also that the public needs to be aware of the procedures for participation in environmental decision-making, have free access to them and know how to use them,

This paragraph applies some of the principles of environmental education to the context of public participation, in particular the importance of so-called “meta-information”, i.e., information about how to acquire and use information. **Effective use of the tools of public participation requires the public to have knowledge not only of the information that will be relevant to a particular decision-making process, but also of information about their opportunities to participate in the decision-making process.**

Participation in decision making should not be the exclusive opportunity of the computer literate. Electronic information tools, such as user-friendly websites, are efficient means to assist the public to gain information on how to exercise their rights under the Convention. However, not all members of the public may be able to access such tools, in particular the elderly, illiterate, poor, etc. More traditional information tools, such as brochures or written guidance or other correspondence from public authorities, e.g., on how to request information or initiate a review procedure, should also be used (Aarhus Implementation Guide). The use of the word ‘*should*’ rather than ‘*may*’ is significant. Alternatives to public notification through electronic means are not an option, they are a requirement. The precise means of the alternatives is open to the Department but given the use of the Site Notice method for other aspects of the consultative and public information process regarding forestry this would seem to be an obvious choice.

In Case C427-07, the European Court of Justice found that Ireland had not fulfilled its obligation to inform the public about access to judicial review procedures **“as the mere availability on the internet of rules and decisions cannot be regarded as ensuring, in a sufficiently clear and precise manner, that the public concerned is in a position to be aware of its rights on access to justice in environmental matters”**.

The logical corollary of this judgement is that the mere availability on the internet of a decision relating to the granting of a licence for an activity which may have a significant effect on the environment is not, of itself, an adequate or effective means of facilitating public participation.

Site Notifications are a feature of Afforestation, Forest Roads and Felling Licence procedures but the Site Notification for Felling Licences does not form part of the consultation process. Why not? It strikes me as

perverse that the public must be notified by a Site Notice that works are about to take place based on a licence granted but the public are not entitled to be notified by the same means that a licence has been granted and that they have a right to appeal the decision.

CSO statistics for 2017

- 11% of households do not have internet access
- 16% of individuals have never used the internet.
- 28% of households in the Border area do not have fixed broadband
- 25% of individuals in the Border area have not accessed the internet in the last 3 months
- 21% of individuals in the Border area have never accessed the internet.
- 19% of individuals have not accessed the internet in the last 3 months prior to interview.
- **52% of individuals aged between 60-74 years age category have not accessed the internet in the last 3 months prior to interview.**
- **32% of households with 1 adult and no dependent children have never accessed the internet.** (This is the classic profile of the bachelor farmer in Co. Leitrim).
- 23% of the population of Co. Leitrim are in the 60 years plus categories.
- 36% of the population of Co. Leitrim are in the 50 years plus categories.

The Minister's decision to award this licence (and any other licence awarded under such circumstances) is certainly in contravention of the spirit and quite probably the letter of the Aarhus Convention as it is denying a proportion of the population the opportunity to participate in the decision making process because of the restrictive nature of its means of public notification.

Like many local people that I talk to, I love trees, woodlands and forests but I despise the plantation model of exotic conifers that is enveloping this area. It is not human, community or nature friendly. It is my duty to my children and grand-children, to my neighbours and my community (including the nature that surrounds me) to oppose this licence in its current form.



Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8



Photo 9



Photo 10



Photo 11





Photo13

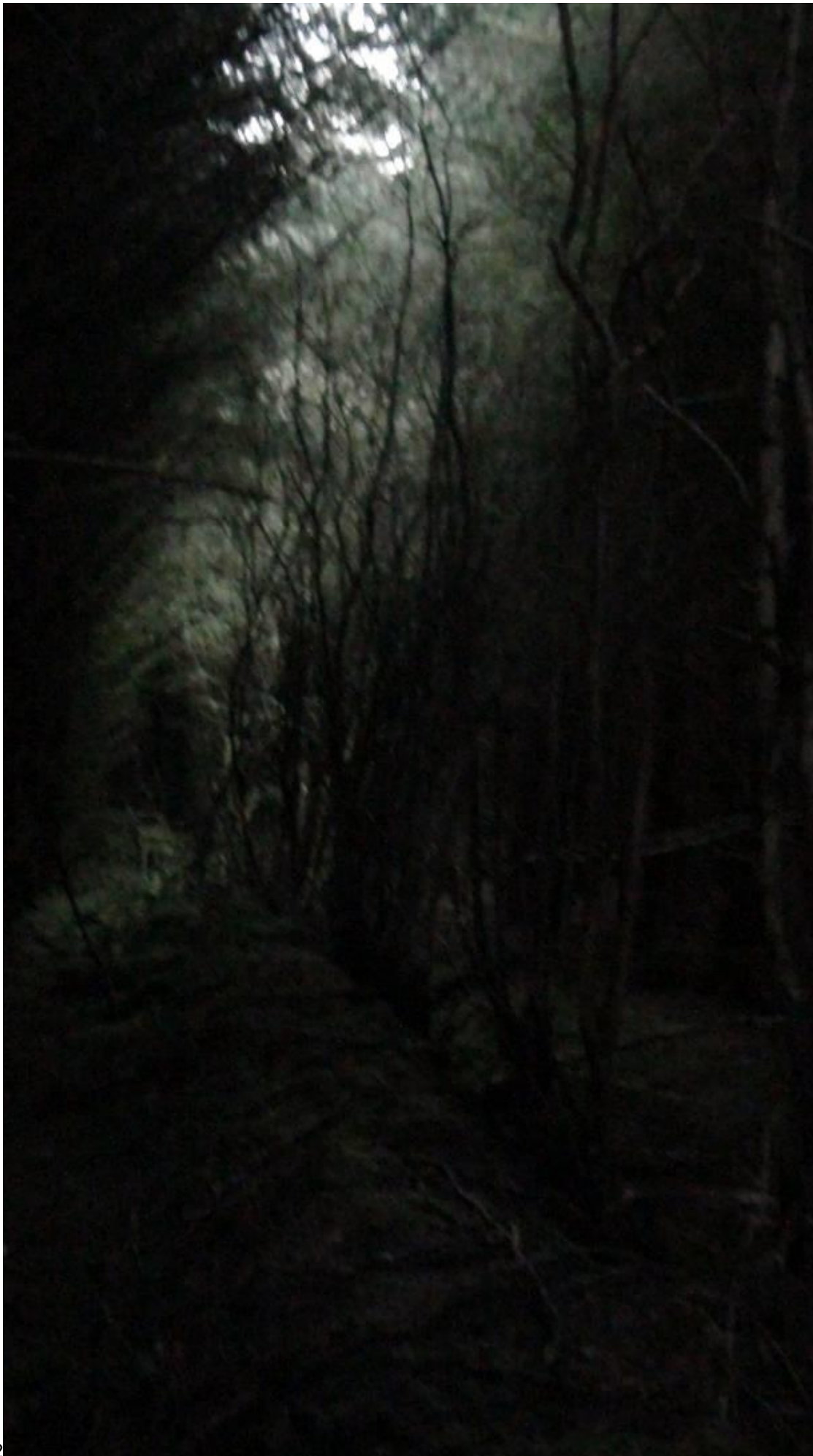
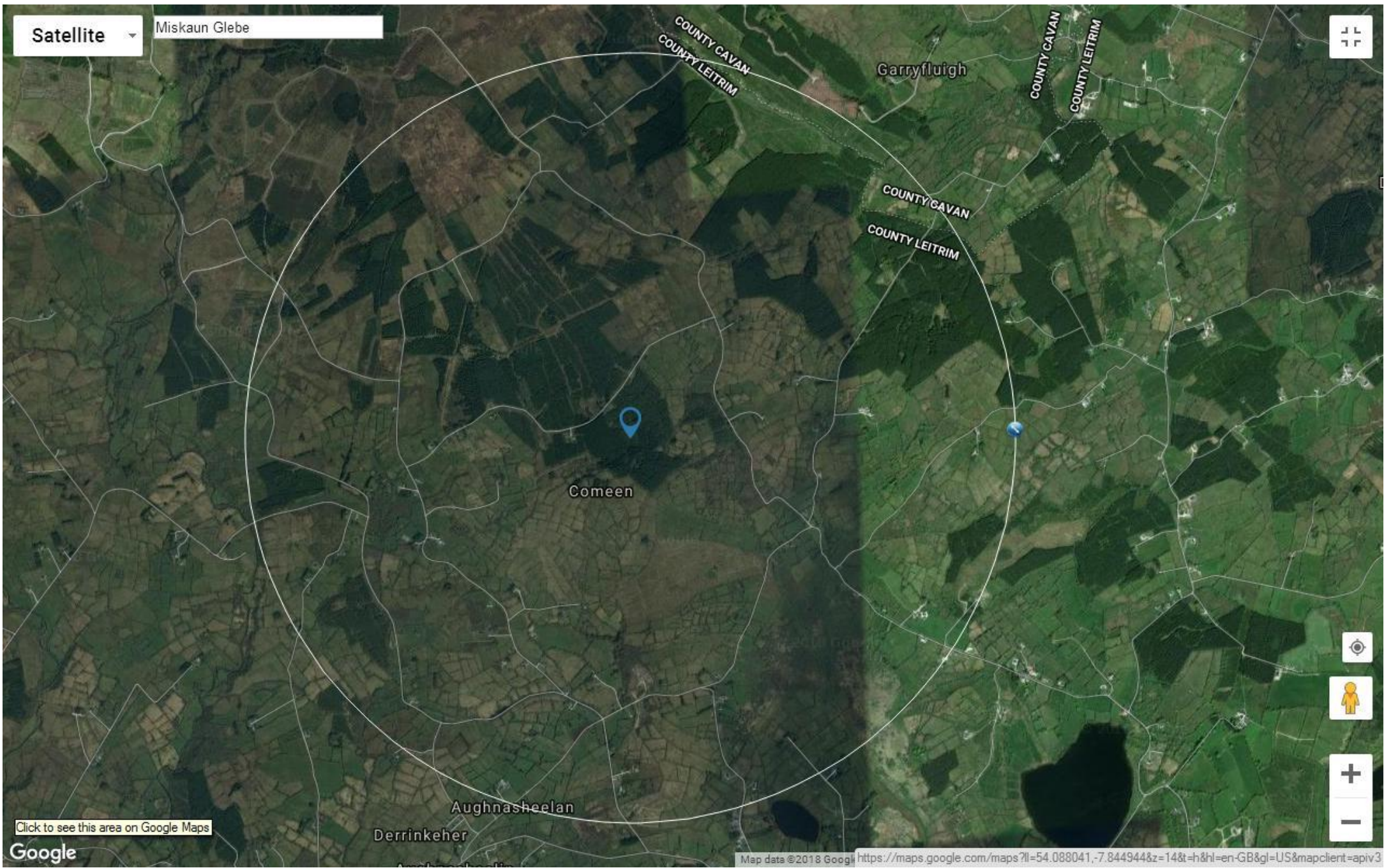




Photo 15

Satellite

Miskaun Glebe



Comeen

Garryflough

COUNTY CAVAN
COUNTY LETRIM

COUNTY CAVAN
COUNTY LETRIM

COUNTY CAVAN
COUNTY LETRIM

Aughnasheelan

Derrinkeher



Click to see this area on Google Maps

Google