



FRIENDS OF
THE EARTH
SCOTLAND

BRIEFING

Good Neighbour Agreements

Demanding environmental justice in your backyard

Environmental injustice

Everyone has a right to a decent environment. However, the reality in Scotland is that many people have to live with a damaged environment, beside a waste dump, a chemical factory, a busy road, an opencast mine, an incinerator. In Scotland, as is the case throughout the world, it is the poor, the unemployed, the most isolated or vulnerable, the least powerful who get the worst pollution. The result of this is ill-health, accidents and ongoing anxiety.

The first to feel the effects of our inability to achieve sustainable development are those with the least choice to do anything about it. We have a planning control system and pollution regulations, but still, poor communities suffer the worst environments. This is environmental injustice, and this is what Friends of the Earth's campaign for environmental justice aims to tackle. Environmental justice: no less than a decent environment for all; no more than a fair share of the Earth's resources.

As it is, industries and developments cause these environmental injustices without really noticing. Businesses do their business, extracting resources, manufacturing products, providing services, buying and selling, disposing of waste, with both eyes focussed on the bottom line - they have to make a profit to provide a return to their investors, to whom they are accountable. Keeping costs down often leads to unforeseen effects such as damage to the environment of the local community, to whom they have very limited accountability.

The constraints of accountability on existing businesses are essentially through the plan-



Good neighbour: Baldovie incinerator

ning system and the regulatory regimes enforced in law. Primarily the responsibilities of local authority planning departments, and the Scottish Environment Protection Agency (SEPA), these are only as strong as the willingness of these public bodies, the legislation they work within, and the capacity of the local community to exercise their rights. In all three cases, there are weaknesses which lead to communities suffering environmental injustice.

There are many examples of communities missing their opportunity to object to a development because they are unaware of their rights. There are concerns that some permitted discharge levels may be high enough to affect health, and precautionary principles are not followed. SEPA's approach to gentle persuasion with polluting companies is inadequate and the fines imposed by the courts are too low to deal with emission infringements.

It is important to use the existing planning and regulatory systems, and Friends of the Earth campaigns to improve them.

However, society also needs to find ways for communities to gain more accountability from existing or potential 'bad neighbours'. Wherever a factory or operation has the potential to cause a nuisance or a danger to the local community, there needs to be ways of making the company accountable to the communities they are beside. One such mechanism which has been widely used in the USA, and is being adopted in Scotland, is the Good Neighbour Agreement (GNA).

Good Neighbour Agreements are mechanisms for improving the environmental performance of a company or facility, by giving the community who live beside it more say in the standards by which they operate. Whilst they have been in existence in the United States for decades, the concept is still new in Scotland. Friends of the Earth Scotland has been involved in supporting the UK's first Good Neighbour Agreement between Dundee Energy Recycling Limited (DERL) and the neighbouring community of Douglas (see box p3).

Each GNA is tailored to the local situation, but the kinds of issues which may be covered include community access to information, right to inspect the facility, publication of accident preparations, reduction of polluting emissions and contribution to the local economy.

Who benefits?

The community will benefit because agreed standards must be higher than the minimum set by legislation, regulation or planning conditions. GNAs commit companies to openness and accountability, opening their monitoring data to scrutiny by the public and their independent advisors. It can also cover issues which are notoriously difficult to constrain using existing regulatory mechanisms, such as vehicle movements, local consultation in redundancy situations and local job recruitment targets.

The advantage to the company lies in good relations with the community and the associated public relations benefit. This helps with the smooth running of their facility and with starting up new facilities in other areas, and can also help to improve relations where they have broken down.

Opportunities and Threats

The purpose of a Good Neighbour Agreement is to improve the accountability to the local community and other stakeholders of an operation which is potentially a 'bad neighbour'. It must be additional to existing standards, not a substitute for legal or administrative restrictions or recognised good practice. Nor should they be seen as a substitute

Good Neighbour Agreements can include:

Community Access to Information

information about the company's operation is held in the local library in a comprehensive form rather than scattered inaccessibly across various local and national regulatory bodies.

Right to inspect the facility

accompanied by an expert, a union representative and a plant worker of the community's choice.

Pollution prevention

a company will plan to reduce its use of toxic substances, or its toxic wastes and emissions over a scheduled period.

Accident preparation

a company must prepare a plan for procedures it will undertake in the case of an accident and make this plan available for public review and input.

Good jobs, local jobs, union jobs

commitment is given to encouraging local recruitment and to providing an opportunity for workers to be represented through union recognition.

Local economic needs

a special community benefit fund may be established with contributions from the company.

Source: Lewis & Henklels

DERL / Douglas Good Neighbour Charter

The UK's first Good Neighbour Agreement was initiated when in May 2000, a Good Neighbour Charter was signed by two representatives of residents associations in Douglas, the local Councillor and the Chair of the board of Dundee Energy Recycling Limited (DERL). In 1996, the waste incinerator at Baldovie industrial estate in Dundee closed, amid protests and complaints from local residents about emissions of dioxin and other pollutants. DERL's proposals for a new incinerator, which would generate electricity from burning waste, were also opposed, but planning and operating permission was granted.

FoE was keen that local people had a mechanism for ensuring that they were not exposed to health threatening or inconvenient effects of the plant. The company, a joint venture comprising Dundee Council and private interests was anxious to avoid conflict with the local community.



Signing the Charter in the presence of the Environment Minister

During development, concerns were expressed by the residents of the local communities. In addition

to the contents of the smoke from the chimney, lorry movements through the estate and in front of schools were a worry, and a minor explosion provoked concerns about the implications of an accident.

A process of awareness raising in the community and meetings with residents associations, local environmental groups, trades council representative and community workers, discussed the possibility of a Good Neighbour Agreement. Contact was made with the plant manager and the local Councillor, with an outline of what was wanted. Support was obtained from the Council and the DERL Board and the wording of a Good Neighbour Charter negotiated, which committed the parties to negotiating an ongoing agreement.

Within weeks of the signing of the Charter, newspapers covered a research report for the USA about the health risks from dioxin levels below UK standards. This precipitated a meeting of the liaison group which led to a doubling of the frequency of monitoring for dioxins to ensure that emission levels stayed low.

Whilst FoE remains opposed to the incineration of waste we support this initiative to improve accountability to the community, and are monitoring its effectiveness with interest.



Good Neighbours Charter

Dundee Energy Recycling Limited and the Douglas Community

This Charter will be agreed and publicised, and enshrines the principles of a good neighbour agreement. The Charter will be open to periodic review and revision. The Liaison Group will form a structure for communication between the communities and DERL.

<p>Liaison Group</p> <p>DERL agrees to the establishment of a Liaison Group which will be made up of:</p> <ul style="list-style-type: none"> 2 representatives from DERL, 3 community representatives, 2 elected members and 2 ex officio community advisors <p>Minutes of the meetings will be made public.</p> <p>A Constitution and Standing Orders will be agreed at the initial meeting, and will be subject to ratification by the DERL Board.</p> <p>The Liaison Group will meet quarterly, with a provision for additional meetings if required.</p> <p>Community Access to Information</p> <p>A comprehensive DERL file will be held in the local libraries in the neighbouring communities and at the Central Library. Information will be presented in an accessible and understandable form to lay members of the community.</p> <p>Open Access to Visit the Facility</p> <p>The Liaison Group is welcome to visit the facility by prior arrangement. Other community groups wishing to visit the facility may apply via the Liaison Group.</p> <p>Accident Emergency Plans</p> <p>DERL will include in the public file referred to above, procedures for dealing with emergencies or accidents, likely to affect the local communities. These procedures will be subject to consultation with the Liaison Group.</p> <p>Environmental Performance</p> <p>A statement of Environmental Performance will be publicised in lay terms and agreed by the Liaison Group. Technical reports on emissions will be made available as part of the agenda at Liaison Group meetings. Where emission limits are exceeded a full explanation of the cause, and measures taken as a result, will be made available to the Liaison Group.</p> <p>Employment Policies</p> <p>DERL will abide by all its legal requirements in employment practice, including those relating to trade union recognition. While adopting an equal opportunities policy, DERL will give sympathetic consideration to employing local staff who meet the requirements for any post.</p>	<p>Local Economic Conditions</p> <p>DERL and the Liaison Group will discuss matters of mutual economic interest.</p> <p>When procuring goods and services DERL will give sympathetic consideration to suitable qualified and experienced companies who can fulfil DERL's needs.</p> <p>Transportation of Waste</p> <p>DERL will use all reasonable endeavours to ensure that contractors delivering waste to the plant do so with due consideration to local communities. In particular, contractors will be asked to design routes and times to take account of local schools, and any other local factors which should be considered for the protection of children and other vulnerable groups.</p> <p>Changes to Operating Conditions</p> <p>The Liaison Groups may discuss any change to legislation that relates to emissions from the plant.</p> <p>In addition, DERL will consult with the Liaison Group prior to any decision being taken to process types of waste which are not covered by the current EPA IPC authorisation.</p> <p>Signed on behalf of the Douglas Community</p> <p style="text-align: center;"><i>[Signature]</i></p> <p>Signed on behalf of Dundee City Council</p> <p style="text-align: center;"><i>[Signature]</i></p> <p>Signed on behalf of Dundee Energy Recycling Ltd</p> <p style="text-align: center;"><i>[Signature]</i></p> <p style="text-align: center;">This Charter will be reviewed every two years</p> <div style="display: flex; justify-content: space-around; align-items: center;">   </div> <p>Signed in the presence of</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <p><i>[Signature]</i></p> <p><i>[Signature]</i></p> </div>
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for ongoing improvements in legal standards. Although the company in the agreement will clearly obtain a benefit, it is important to acknowledge that GNAs are not agreements between equals - in a dispute, the company is still the powerful partner. It is therefore a tool for increasing accountability, not a solution to bad neighbour developments.

There are risks of abuses with Good

Neighbour Agreements. Unscrupulous companies might announce good neighbour agreements for the PR benefits, with no negotiation with the community or with 'hand picked' community members. In 1999, the Quarry Products Association launched a national 'good neighbour' scheme, which was not a Good Neighbour Agreement, but a vain attempt to avoid an aggregates tax.

Dishonest companies may also seek to con-

Minimum standards for a Good Neighbour Agreement

FoE will only approve a Good Neighbour Agreement which meets these minimum standards:

A GNA must be owned by the community.

Ideally it should be initiated by the community or their representatives, rather than the company, but in all cases the community must have the opportunity to set the parameters of the GNA independently of the company. This can be ensured in a number of ways, such as public meetings, discussion in community groups or even a local ballot.

A GNA must be additional to existing responsibilities.

It must set standards which are higher than those required by law, or for planning or operating consent, and should include conditions outwith the remit of licensing authorities. If any aspects of the GNA merely reinforce legal responsibility, this should be clearly stated.

A GNA must be progressive.

Any agreement must be regarded as temporary and require regular review to improve the standards or increase the scope of the agreement. If this is written into the agreement, then improvements can be made on the basis of annual review or on an *ad hoc* basis as issues arise.

A GNA must have effective sanctions from the community.

The community must be able to implement action which could damage the company if it reneges on any aspect of the agreement. This might include bad publicity, boycotting products or services, use of democratic leverage,

direct action such as blockades or, in collaboration with an organised workforce, industrial action. Some American GNAs are legally enforceable, and there is no reason why they should not be included in planning conditions for a new development. Ultimately, the community representatives can walk out of the agreement.

A GNA must give access to independent expertise.

Community representatives should not be expected to have the technical or legal expertise needed for an informed negotiation. It is therefore essential to recognise their right to access experts, for example scientists, engineers, lawyers, from Universities or campaign groups. The agreement should include their right to participate in meetings (without voting rights), and may include a mechanism for the company funding the payment of such experts without influence.

A GNA must be open to other stakeholders.

The operations of a company affect the neighbouring community, but also other communities further afield, the workforce, other local businesses, those with an interest in nature conservation or recreation in the area, even subcontractors, suppliers and consumers of the products. A good GNA should consider which stakeholders should have a say in the standards to which it adheres. It may involve the operation's workers' trade union representative, environmental groups, local schools and voluntary organisations and religious institutions.

ceal or ignore infringements of the GNA. There needs to be openness in the procedures and an opportunity for the community or their allies to expose, or impose a penalty on the company.

The existence of a GNA does not imply support by the community for the operation. A community might have objected to a development and lost, and continue to oppose its existence. A GNA is thus a second line of defence, and should not be interpreted by the company as a change of heart, or used by them to try to convince activists of the value of their operation.

In order to minimise the risks associated with the use of Good Neighbour Agreements in Scotland, Friends of the Earth will only support GNAs which meet certain minimum standards. (see box p4).

Why set up a Good Neighbour Agreement?

You might be active in your community, a Community Council member or on the tenants or residents association. You may be a citizen with a concern about a nearby factory, a company or a waste facility.

You may have objected to the development in the first place. It is important to exhaust all opportunities for preventing bad neighbour developments before considering a Good Neighbour Agreement. However, if the decision has gone against you, a Good Neighbour Agreement might provide the second line of defence.

An existing operation may start to behave as a bad neighbour. If you are concerned about any pollution or health risks from the site, contact the Scottish Environment Protection Agency, or other relevant authority. If however, a company is meeting its obligations but is still a bad neighbour, a Good Neighbour Agreement might provide the opportunity improve the situation.

You may be on a local liaison group for a disruptive development. You may be frustrated that the community representatives

have little power on the group and want a mechanism, such as a Good Neighbour Agreement, to improve the accountability of the operators.

You may have had trouble with a particular plant before, which has subsequently agreed to improve its performance. A Good Neighbour Agreement might help to monitor this situation.

How to set up a Good Neighbour Agreement

There is no one way to set up a Good Neighbour Agreement, but here are a few ideas of what you might do.

Speak to others with a stake in the issue: others in the community: community representatives; community workers; local schools and housing workers; nearby Churches, Mosques and Gurdwara etc; other neighbouring businesses and trade union representatives; the local Councillors.

Find out what the existing obligations of the company are, and the standards which it must meet by law. The planning department of the local authority will have a copy of the planning consent and other documentation, such as an environmental statement, provided by the company when it applied for permission. It may have a 'section 75 agreement' comprising additional conditions it agreed to meet. The Scottish Environment Protection Agency will have a copy of the operating license, and should explain to you the legal standards which the company must meet.

Raise wider awareness in the community through word of mouth, public meetings, leaflets, articles in local newspapers, community events, exhibitions etc. Identify all the concerns about the company which you are aware of in the community, and find out what kind of solutions might be acceptable.

Approach the company, either through the Operational Manager or Chief Executive, or the Board of Directors. This could be done directly, through the local Councillor, or

through a recognised trade union representative. Explain your concerns, how you think a Good Neighbour agreement will help to resolve them, what you would like to see in the Good Neighbour Agreement, and why you think it is in their interest to participate in it. Some companies will see the benefit immediately, whereas others will need more persuasion, through bad publicity, community lobbying, industrial action or Council pressure.

Once you have agreement in principle from both sides, go through all the issues which the community is concerned about and aim to reach agreement on the solutions. Be sure to include an agreement to improve and update a commitment, and access to external expertise where appropriate. Use the Minimum Standard checklist (see box, p4) for guidance.

The DERL/Douglas approach was to set up a Good Neighbour Charter, which is a short document stating the commitment to an Agreement, the mechanism for developing it and outlining the areas in which negotiations should take place. The Agreement itself can therefore be an evolving process, constantly improving as issues arise. Some agreements in the USA run to many pages and a great deal of detail, negotiated on behalf of each side by lawyers. Wherever it starts in can be seen as a peg on a ratchet which can be built on .

Summary

Good Neighbour Agreements can improve the performance of companies and share the benefits more widely amongst those with a stake in its activities. They can protect the health and well being of the local population and natural environment, and can improve the conditions of workers. They do not provide a panacea or a solution to bad environmental practice, but can form part of the range of measures by which the public interest and the protection of the environment can be moved higher up the agenda. Accountability to the local community goes a long way towards environmental justice.

Further reading

Protecting our Environment: a citizens guide to environmental rights. Friends of the Earth Scotland

Resources for the Future: community action and education for a sustainable Scotland. Friends of the Earth Scotland.

The Good Neighbor Handbook: A Community-based Strategy for Sustainable Industry. By Sanford J. Lewis 1992 (Available from: The Apex Press P.O.Box 337 Croton-on-Hudson, NY 10520 1-800-316-2739)

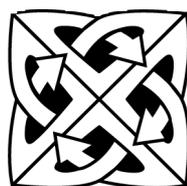
The Good Neighbor Project P O Box 79225 Waverly MA 02179 617 489-3686

<http://www.enviroweb.org/gnp>

Good Neighbor Agreements: A Tool for Environmental and Social Justice. By Sanford Lewis and Diane Henkels. In Environmental Victims ed. by Christopher Williams 1998 Earthscan

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