

DATA LABEL: PUBLIC



## **ENVIRONMENT POLICY DEVELOPMENT AND SCRUTINY PANEL**

### **MAINTENANCE OF OPEN SPACES, TREES AND SHELTERBELTS IN DEVELOPMENT AREAS**

#### **REPORT BY HEAD OF OPERATIONAL SERVICES**

##### **A. PURPOSE OF REPORT**

To provide the Panel with an update on the maintenance of open spaces and shelterbelt trees in Springfield, Linlithgow; including providing an update on the areas the council maintains that may not be owned by the council or where the maintenance responsibility has not been transferred or taken over by the council.

##### **B. RECOMMENDATION**

The Environment Policy Development and Scrutiny Panel is asked to:

1. Note the current maintenance information for Springfield, Linlithgow and the current maintenance arrangements provided by the council.
2. Note the findings from the Springfield review along with the future considerations for the ongoing maintenance of Springfield, Linlithgow.
3. Note officer recommendations that there are no changes to current service standards and that the current maintenance arrangements are continued for open spaces, trees and shelterbelts in development areas; and that officers seek to conclude the transfer of maintenance responsibilities for development areas where formal documentation does not exist.

##### **C. SUMMARY OF IMPLICATIONS**

<b>I</b>	<b>Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	None
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	None

<b>IV</b>	<b>Impact on performance and performance Indicators</b>	None
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	We live longer, healthier lives and have reduced health inequalities. We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	Current arrangements are managed under existing revenue and capital budgets.
<b>VII</b>	<b>Consideration at PDSP</b>	Report to Environment PDSP on 30 March 2021.
<b>VIII</b>	<b>Other consultations</b>	Report to Linlithgow Local Area Committee in November 2018; and 2 March 2021. WLC – Property and Estates, Legal Services

## **D. TERMS OF REPORT**

### **D.1 Background**

In March 2021, a report was presented to the Environment Policy Development and Scrutiny Panel setting out the council's current maintenance arrangements for open spaces, trees and shelterbelts within the Springfield Estate in Linlithgow.

It was noted at the meeting:

- That following a review of council records by officers that the council is currently maintaining areas of land not owned by the council and where maintenance agreements have not been fully concluded between developers and West Lothian District Council, subsequently the council.
- That officers will engage with residents to undertake a detailed review of the Springfield Estate, Linlithgow to consider options for the ongoing maintenance of the estate.
- That the findings from the review along with options and officer recommendations for the future maintenance of the estate and the other residential developments adopted council-wide under similar circumstances will be presented to the Environment Policy Development and Scrutiny Panel in Autumn 2021.
- If service changes are required, a report seeking approval for the changes will be presented to the Council Executive.

To date, the council has continued to maintain the open spaces, trees and shelterbelts.

## **D.2 Current Service Provision**

The grounds maintenance service for open spaces includes cyclical activities such as grass cutting, weed spraying, shrub bed maintenance and hedge cutting.

The current service standards for the Springfield Estate, Linlithgow are 12 grass cuts, 2 weed sprays, 1 shrub bed visit and 1 amenity hedge cut each year. This is consistent with the service standards provided to all open spaces in other developments and across the council area.

All trees and woodland areas are currently managed across the council using a priority risk-based approach as set out in the council's Tree Management and Safety Policy. All tree inspections and arising works are prioritised based on risk and resource availability. This approach and methodology have been applied to the maintenance of the trees and shelterbelts in the Springfield Estate, Linlithgow; and in other developments and across the council area.

## **D.3 Review of developments in the Springfield Estate.**

Having previously reviewed all existing council records, officers completed a further more detailed review of records considering:

- Registers of Scotland List of Adopted Estates
- Property Title Deeds and Burdens
- Developers Deed of Completion for Estates
- Factor Register
- Sales of Properties
- Council Agreement Records
- Historical Plans and Maps

Officers also wrote to residents in May 2021 seeking copies of any documents, records or agreements that could provide evidence of the transfer of maintenance responsibility for grounds maintenance activities to the council.

## **D.4 Findings from Review**

Officers have now reviewed all council records and all the records and documents provided by residents including sample burdens from property title deeds. Having concluded the detailed review to establish where maintenance responsibility has been agreed and transferred between the developer and the council; officers could not find any further evidence from the information provided by residents to confirm the transfer of maintenance responsibilities for grounds maintenance activities to the council.

The findings for each development and the number of resident's responses are provided in Appendix 1 of the report.

### Residents Consultation

In total, the council issued 748 letters to addresses in the Springfield Estate and received 30 responses from residents, a response rate of **4%**. A further 2 responses were received from Linlithgow Community Council and a Residents Group responding on behalf of a group of residents.

From the 32 responses received, 13 provided supporting documents such as sample title deeds and plans; whilst 16 provided other information which indicated that the council has been maintaining open spaces, trees and shelterbelts for 30 plus years, and 3 were written objections to any alterations of the current arrangements.

Where residents' burdens and title deeds were reviewed it has been evidenced from sample documents that where the maintenance responsibility has not been transferred to and taken over by the council, then "the respective feuars and their foresaids shall be bound to jointly uphold and maintain in a neat and tidy condition such open spaces of any description in so far as these are not taken over by the Local Authority". The responsibility for maintenance not transferred to the council clearly remains with residents.

### Summary

The findings from the review have determined that:

- The maintenance responsibility for open spaces transferred to the council for the developments at – Wimpey Homes 1975, Beazer Homes 1986 & 1995, Wilcon Homes 1987 and Wimpey Homes 1988.
- There is documented evidence that discussions had begun between West Lothian District Council and the developers at Beazer Homes 1987 and Avonside Homes 1988; to transfer the maintenance responsibility for open spaces including the weed spraying of shelterbelts undergrowth to the council, however these discussions were not concluded.
- There is no documented evidence regarding the transfer of maintenance responsibility for trees and shelterbelts to the council.
- There is other information received from residents which indicates that the council has undertaken the maintenance responsibility for open spaces, trees and shelterbelts within the Springfield Estate for 30 plus years.

## **D.5 Future Considerations**

Having concluded a further detailed review of all available records and residents' responses the council now needs to consider the options for the ongoing maintenance for the Springfield Estate, Linlithgow. The main options for consideration are:

- The council continues to deliver all current service provision as set out in D.2 of the report and seeks to conclude the transfer of maintenance responsibilities.
- The council ceases all maintenance of open spaces, trees and shelterbelts which have not been transferred to it.
- The council continues to deliver the service provision for open spaces as set out in D.2 of the report and ceases all maintenance of trees and shelterbelts.

There is clear evidence from council records that the maintenance responsibility for open spaces has transferred to the council for 4 developments and that discussions had been progressed, but not concluded, to transfer the maintenance of open spaces to the council for the other 2 developments in the estate.

Planning Guidance required the developers to plant trees and create shelterbelts within the various developments in the estate. The guidance recognises the need for ongoing maintenance although it does not specify that the maintenance responsibility for trees and shelterbelts is transferred to the council. Regardless, the council has undertaken this responsibility for some 30 plus years.

Recently some residents have started pruning and felling trees without discussion or agreement from either the land owner or the council. To ensure Planning Guidance is complied with and to discourage others from felling common trees without the relevant permissions it is recommended that ownership and who has maintenance responsibility needs to be clearly identified for all trees and shelterbelts.

### Recommendations

As West Lothian District Council accepted the transfer of the maintenance of open spaces to the council for 4 developments and had commenced discussions on transferring the maintenance of open spaces for the further 2 developments the council would propose to continue with the maintenance of open spaces and that there are no changes to current service standards.

On the basis that the council has maintained all trees and shelterbelts across the 6 developments for 30 plus years; it can be assumed that it was intended that the maintenance responsibility for trees and shelterbelts was transferred to the council. The council would propose to continue with the maintenance of trees and shelterbelts and that there are no changes to current service standards.

As the council has been maintaining open spaces, trees and shelterbelts for over 30 years, the continued maintenance arrangement will not cause any detriment to either the council or residents.

Where documents don't exist, the council will seek to conclude the transfer of maintenance responsibilities with the various land owners.

If the council concludes the transfer of maintenance responsibility for trees and shelterbelts, this will provide a degree of protection for all remaining trees preventing others from felling trees without the council's permission, ensuring a fair and consistent approach to the application of the Planning Guidance.

## **D.6 Review of Council-Wide maintenance responsibilities**

Officers have completed a high-level investigation of all open space areas, trees and tree shelterbelts currently being maintained by the council for other developments adopted under similar circumstances and have identified a further 49 development areas and 94 tree shelterbelts that the council is currently maintaining that it doesn't own and may not have responsibility for.

For consistency and to ensure all other council residents are being treated fairly and equally that the council will continue with the ongoing maintenance, in line with the proposals set out in D.5 above, for all other developments adopted under similar circumstances.

## **D.7 Next Steps**

Following presentation at the Environment Policy Development and Scrutiny Panel the next steps will be:

- Communication with residents on the outcome of the review.
- The transfer of maintenance responsibility is concluded with land owners where formal documentation does not exist.

## **E. CONCLUSION**

This report sets out the ongoing issues with maintenance activities for open spaces, trees and shelterbelts in Springfield, Linlithgow.

Having concluded a further more detailed review of all available documents, records and agreements as listed in D.3 of the report; officers could not find any further evidence to confirm the transfer of maintenance responsibilities for grounds maintenance activities to the council.

On the basis that the council have been maintaining open spaces, trees and shelterbelts for 30 plus years; it is proposed that the council continue with the ongoing maintenance of open spaces, trees and shelterbelts as set out in D2 of the report for all developments areas and seek to conclude the transfer of maintenance responsibilities where formal documentation does not exist.

## **F. BACKGROUND REFERENCES**

West Lothian Council – Grounds Maintenance Service Standards.

West Lothian Council – Tree Management and Safety Policy

West Lothian Council - Confirm Engineering Asset Management System

Appendices/Attachments: Appendix 1 – Springfield Maintenance

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**17 November 2021**

## Springfield Developments, Linlithgow – Maintenance Responsibilities and Responses

Developer/Development	Streets/Area	Number of Residents Responses	Council Maintenance Responsibility – Open Spaces (Grass, Shrubs, Hedges, Weed Spraying)	Council Maintenance Responsibility for Trees in Open Spaces and Tree Shelterbelts
1. Wimpey Homes 1975	Carse Knowe, Dovecot Park, Bells Burn Avenue, Huntburn Avenue, 2 – 180 and 1 – 135 Springfield Road; and cul-de-sacs at Bonnytown Avenue and Terrace	Eight	Yes – maintenance responsibility transferred to the council.	No – no agreement in place but council currently maintain trees and shelterbelts - deemed responsibility of feuars - residents in common.
2. Beazer Homes 1986	Sheriffs Park	See Beazer 1995	No – however this was updated in 1995.	No – however this was updated in 1995.
3. Wilcon Homes 1987	21 – 173 Baillielands	Two	Yes – maintenance responsibility transferred to the council.	No – no agreement in place but council currently maintain trees and shelterbelts - deemed responsibility of feuars - residents in common.
4. Beazer 1987	74 – 178 Bailielands	Four	No – no agreement in place but council currently maintain grass and shrubs.	No – no agreement in place but council currently maintain trees and shelterbelts - deemed responsibility of feuars - residents in common
5. Avonside Homes 1988	1 – 60 Bailielands	Two	No – deemed responsibility of residents in common – Management Group in place.	No – no agreement in place but council currently maintain trees



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				and shelterbelts - deemed responsibility of feuars - residents in common
6. Wimpey Homes 1988	Burghmuir Court, Kingsfield and Pilgrim Hill	Nine	Yes – maintenance responsibility transferred to the council	No – no agreement in place but council currently maintain trees and shelterbelts - deemed responsibility of feuars - residents in common.
7. Beazer Homes 1995  (update on 1986 agreements)	Sheriffs Park	Five	Yes – maintenance responsibility transferred to the council	Partly – covers 2 weed sprays per year of undergrowth in tree belts. No tree maintenance covered in agreement but council currently maintain trees and shelterbelts. Trees are deemed the responsibility of feuars - residents in common.