

DATA LABEL: PUBLIC



**LINLITHGOW LOCAL AREA COMMITTEE**

**MAINTENANCE OF OPEN SPACES AND TREES IN SPRINGFIELD, LINLITHGOW**

**REPORT BY HEAD OF OPERATIONAL SERVICES**

**A. PURPOSE OF REPORT**

To provide the Local Area Committee with an update on the maintenance of open spaces and shelterbelt trees in Springfield, Linlithgow; including providing an update on ownership and the areas the council maintains that are not owned by the council.

**B. RECOMMENDATION**

The Local Area Committee is asked to:

1. Note the current ownership information for Springfield, Linlithgow and the current maintenance arrangements provided by the council.
2. Note that a report with an action plan and timetable for the detailed review of Springfield, Linlithgow and for a council-wide review of land ownership and the future maintenance of historic development areas will be reported to the Environment Policy Development and Scrutiny Panel on 30 March 2021.

**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</b>	We live longer, healthier lives and have

	<b>Outcome Agreement</b>	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>	None
<b>VIII</b>	<b>Other consultations</b>	Report to Linlithgow Local Area Committee in November 2018.

## **D. TERMS OF REPORT**

### **D.1 Background**

The Springfield Estate in Linlithgow was developed in different stages and phases over a number of years by a variety of developers, prior to the formation of West Lothian Council in 1996. As each separate development was progressed and completed, the developers sought to reach an agreement with West Lothian District Council for the council to maintain areas of land held in common/shared ownership.

Since the completion of each development, the West Lothian District Council and since 1996/97 the council has been carrying out the maintenance operations in the open space areas including the maintenance of trees and also the maintenance of tree shelterbelts in accordance with council service standards.

In 2018, the council was contacted by a number of residents seeking permission from the council to remove trees. When considering the residents requests it was identified that the council is maintaining areas of land where maintenance agreements have not been fully concluded between developers and West Lothian District Council.

When officers reviewed council records for the various tree enquiries it was deemed that the shelterbelts were the property of "residents in common". Therefore, the council did not own the trees or shelterbelts and it was deemed that residents had the common responsibility to manage the trees and shelterbelts.

The council agreed to continue maintaining the open spaces, trees and shelterbelts until a full review of the maintenance agreements was concluded.

### **D.2 Review of developments in the Springfield Estate.**

The Springfield Estate in Linlithgow was developed in different phases and stages over a period of approximately 20 years. Council records evidence a total of 6 developments between 1975 and 1995.

A plan for each development is provided in Appendix 1.

Officers have reviewed all existing council records involving these developers and West Lothian District Council in order to establish where maintenance responsibility had been agreed and transferred between the developer and the council. Officers also sought further clarification by reviewing the burdens from a sample of property title deeds for each development area.

The findings for each development are provided in Appendix 2.

### **D.3 Residents in Common**

Where it has been evidenced that the maintenance responsibility has not been transferred and taken over by the council, then land ownership and the maintenance responsibility are deemed to be upheld by the feuars, also commonly known as the “residents in common”.

The responsibilities for land ownership and the maintenance of any land will be clearly defined within the burdens of all resident’s property title deeds.

The council’s records and the plans provided in Appendix 1 are based on information and plans provided by developers when planning permissions were granted and site boundaries may have moved over the years. Therefore, it is recommended residents should seek legal clarification of land ownership and their responsibilities from the Registers of Scotland.

### **D.4 Tree Protection Orders**

Trees and woodlands contribute to local amenity and the quality of the natural and historic environment. Tree Preservation Orders (TPOs) protect the most important trees in West Lothian from felling, or from works which might damage them.

The council can make, manage and enforce TPOs under powers set out in section 160 of the Town and Country Planning (Scotland) Act 1997 and in the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010.

In addition to TPOs, trees can be protected by conditions attached to planning approvals.

Having reviewed council records it has been established that none of the trees or shelterbelts with the Springfield area are currently protected by TPOs or planning requirements.

However, the felling of trees requires a felling licence by law (The Forestry Act 1967) to ensure owners manage trees and tree belts in compliance with legislation and planning guidance. It is an offence to fell trees without having obtained a licence or other valid permission.

Therefore, it is recommended that residents seek advice from the council’s Planning Service before felling any tree(s) on land owned by “residents in common”.

### **D.5 Next Steps**

Having concluded a review of council records for Springfield, Linlithgow it has been established that council is maintaining land and assets that it doesn’t have responsibility for.

The council needs to consider the council-wide options for the ongoing maintenance off the Springfield Estate and the other residential developments adopted under similar circumstances.

Officers will develop an action plan and timetable for the detailed review of Springfield, Linlithgow and for a council-wide review of land ownership and the future maintenance of historic development areas this will be reported to the Environment Policy Development and Scrutiny Panel on 30 March 2021.

## **E. CONCLUSION**

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

Officers will undertake a detailed review of Springfield, Linlithgow and a council-wide review to determine a final position on ownership and future maintenance responsibilities for historic development areas adopted under similar circumstances.

An action plan and timetable for the reviews will be presented to the Environment Policy Development and Scrutiny Panel on 30 March 2021.

## **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 Development Plans

Appendix 2 - Maintenance Responsibilities

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**2 March 2021**

Appendix 1

Linlithgow Springfield Area – Development Boundary Plans

1. Wimpey Homes 1975



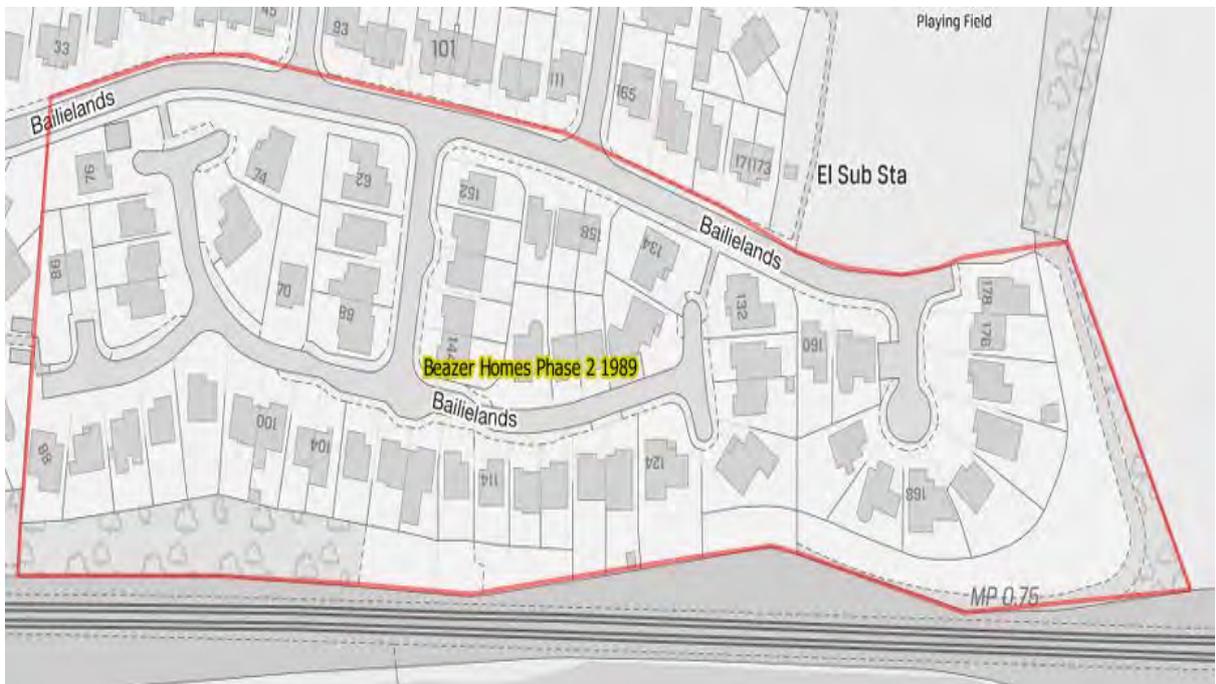
2. Beazer Homes 1986



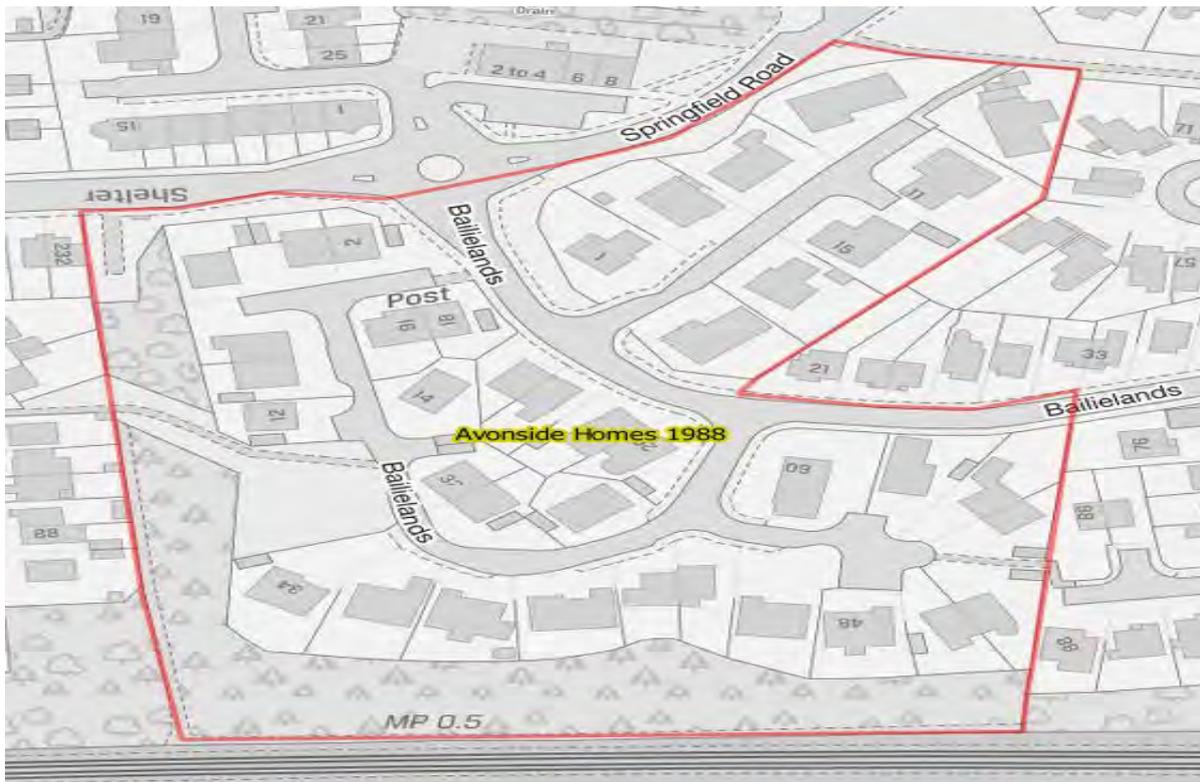
### 3. Wilcon Homes 1987



### 4. Beazer Homes Phase 2 1989



5. Avonside Homes 1988



6. Wimpey Homes 1988



## Springfield Developments, Linlithgow – Maintenance Responsibilities

Developer/Development	Streets/Area	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 Bonnytoun Avenue and Terrace	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	No – however this was updated in 1995.	No – however this was updated in 1995.
3. Wilcon Homes 1987	21 – 173 Baillielands	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	No – no agreement in place but council currently maintain grass and shrubs - deemed responsibility of feuars - residents in common.	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	No – deemed responsibility of residents in common – Management Group in place.	No – no agreement in place but council currently maintain trees and shelterbelts - deemed responsibility of feuars - residents in common
6. Wimpey Homes 1988	Burghmuir Court, Kingsfield and Pilgrim Hill	Yes – maintenance responsibility transferred to the council	No – no agreement in place but council currently maintain trees

## Springfield Developments, Linlithgow – Maintenance Responsibilities

Developer/Development	Streets/Area	Council Maintenance Responsibility – Open Spaces (Grass, Shrubs, Hedges, Weed Spraying)	Council Maintenance Responsibility for Trees in Open Spaces and Tree Shelterbelts
			and shelterbelts - deemed responsibility of feuars - residents in common.
7. Beazer Homes 1995  (update on 1986 agreements)	Sheriffs Park	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.