

## ADOPTED ROADS AND FOOTWAYS IN HELENSBURGH

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### 1.0 EXECUTIVE SUMMARY

- 1.1 As roads authority the Council has responsibility to maintain streets that are included in the list of adopted streets. The list of adopted streets is a requirement of the 1984 Roads Scotland Act. As a general rule the extent of adoption includes the carriageway, footways, adjacent verges, bridges, retaining structures, roads drainage systems, lighting and culverts within the adopted corridor.
- 1.2 Roads authorities have responsibility for streets included in the adopted list. The responsibility extends to maintain in a safe condition, coordinate roadworks carried out by utility companies and generally manage the network in a safe and proportionate condition.
- 1.3 There are a number of streets within Helensburgh where only the carriageways are adopted. The verges and footways, whilst being available for public access, are in private ownership. It is understood that landowners of these privately owned footways and verges have imposed financial charges to utility companies in order that the utility companies may install their cables, pipes and conduits below the surfaces of these areas. It is also understood that landowners have imposed charges on individual frontagers in return for permission to build vehicular accesses across the verges and footways to connect their domestic drives to the adopted roads.
- 1.4 Whilst the council does not have details of legal agreements in place it is further understood that landowners have transferred some liabilities normally associated with roads authorities or landowners to individual frontagers.
- 1.5 The above results in a network of carriageways that the council has responsibility to manage and maintain as well as having the associated liability for. Adjacent to these adopted carriageways is a network of unadopted footways and verges. The liabilities for these footways and verges rests the landowner.
- 1.6 The above results in a maintenance and inspection regime being in place for the carriageways but not for the footways and verges which remain private.
- 1.7 The council has a policy in place which allows unadopted areas to be adopted. However, any costs associated with bringing these areas up to adoptable standards would generally be met by the landowner. The policy does allow for council to

make contributions to bring unadopted areas up to an adoptable standard. Contributions to bring areas up to an adoptable standard would reduce funding to carry out other services such as repairs to the existing adopted road network.

- 1.8 It is recommended that Members note the report and the wording for posting on the Council Website as shown in Appendix 3:

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### 2.0 SUMMARY

- 2.1 This report details anomalies where carriageways were adopted by virtue of being included on the list of adopted streets but verges and footways have remained in private ownership. In practical effect this means that the council as roads authority

### 3.0 RECOMMENDATIONS

- 3.1 It is recommended that Members note the report and the wording for posting on the Council Website as shown in Appendix 3:

### 4.0 DETAILS

- 4.1 The Councils list of adopted streets includes several streets in Helensburgh where only the carriageways are adopted and maintained by the Council as roads authority, at public expense. Appendix 1, by way of a plan, details the locations where carriageways are adopted but verges and footways remain private.
- 4.2 It is unusual for such an extensive road network to have adopted carriageways but privately owned and maintained footways and verges. In practice this means that the council is responsible for the maintenance and management (including coordinating utility company's installation and maintenance of their pipes, cables and conduits) of the carriageways but not for the footways and verges.
- 4.3 As a general rule, roads authorities do not hold title for the land on which roads are built. The sub soil generally being owned by adjacent landowner. Under the Roads Scotland Act the landowner has no authority to interfere with adopted roads and is unable to prevent access or carry out any development within the road corridor without the permission of the roads authority.
- 4.4 Privately owned roads, including footways and verges are available for the public to use. The fundamental difference being the liability rests with the landowner. Focus

should be maintaining what we already have responsibility for rather than increase liability

- 4.5 Section 5 of this report provides the policy for the criteria for bringing unadopted roads (including footpaths and footways) up to an adoptable standard. The Council can in exceptional circumstances, consider the adoption of a footway if deemed by the Council to be in the public interest. The existing unadopted footway be brought up to a standard proportionate to its anticipated use and the anticipated volume and type of traffic, and to a specification whereby the road should not require any maintenance other than routine cyclic maintenance in the first 15 years following its adoption. Under anything other than exceptional circumstances frontagers would be expected to meet the full cost of making up the road to an adoptable standard.
- 4.6 Any consideration of funding the upgrade of unadopted infrastructure should be supported by a Business Case, which should clearly identify the source of funding both to upgrade and maintain the asset. Any such business case would require Council approval. If requests for the adoption of these footways are received they should be considered in the context of the reducing roads maintenance budget in recent years which has limited the level of maintenance possible on existing roads, footways and street lighting assets.
- 4.7 It should also be noted that the Council cannot adopt a footpath without the owners' consent. It is therefore possible that a frontage may request adoption of a footpath but the owner (if different) may object and effectively block it.
- 4.8 Given the difficulties and cost of identifying the ownership of the unadopted footpaths in Helensburgh and the surrounding areas adoption should only be considered if a request is made and the applicant provides evidence of ownership.
- 4.9 Appendix 3 provides the draft wording to be posted on the Council website together with the plan at Appendix 1.

## **5.0 Policy Criteria for Bringing Unadopted Roads up to adoptive standard**

- 5.1 The Council can consider the adoption of a road, footway or associated streetlighting if deemed by the Council to be in the public interest.
- 5.2 For consideration for adoption, the existing unadopted road should meet the following criteria :-
- i) The road would require to be directly linked to the existing network of roads already on the List of Roads.
  - ii) Land necessary for the provision of turning area, passing places, drainage works, etc to enable the road to be brought up to adoptable standard, would be provided at no cost to the Council.
  - iii) The road should be brought up to a standard proportionate to its anticipated use and the anticipated volume and type of traffic, and to a specification whereby the road should not require any maintenance other than routine cyclic maintenance in the first 15 years following its adoption.

### 5.3 Policy Criteria for Council funding of the cost of upgrade works:-

- i) Under anything other than exceptional circumstances frontagers would be expected to meet the full cost of making up the road to an adoptable standard. This requirement would in normal circumstances be effected through the provisions set out within Section 13 and 16 of the Roads Scotland Act (1984)
- ii) In exceptional circumstances, where significant public benefit can be demonstrated the Council could contribute towards the cost of bringing a road up to adoptable standard, and in certain cases meet the full costs. Any such consideration would require to be supported by a Business Case and would require full Council approval.
- iii) The same principles apply to any consideration of Council funding, in part or in full, the cost of bringing street lighting and footways up to an adoptable standard.

### 5.4 Financial Considerations:-

The Council can contribute as a frontager towards the costs of upgrading roads, footways and streetlighting to and adoptable standard. In exceptional circumstances, and on the basis of a Business Case, the Council could consider funding, in part or in full, the costs of upgrading roads, footways and lighting schemes. In such exceptional circumstances, the source of funding will require to be clearly identified and must have Council approval.

## 6.0 CONCLUSION

- 6.1 This report details anomalies where carriageways were adopted by virtue of being included on the list of adopted streets but verges and footways have remained in private ownership. In practical effect this means that the council as roads authority is responsible for the maintenance and management (including coordinating utility company's installation and maintenance of their pipes, cables and conduits) of the carriageways but not for the footways and verges.

## 7.0 IMPLICATIONS

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|-----|------------|---|
| 7.1 | Policy     | Adoption Policy for private roads was approved by Council in 2012 (appended to this report) |
| 7.2 | Financial  | No budget available for private areas   |
| 7.3 | Legal      | As per report and appendix  |
| 7.4 | HR         | None known  |
| 7.5 | Equalities | None known  |

7.6	Risk	None known
7.7	Customer Services	None known

**Executive Director of Development and Infrastructure**

**Policy Lead** Councillor Ellen Morton

July 2016

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**APPENDICES**

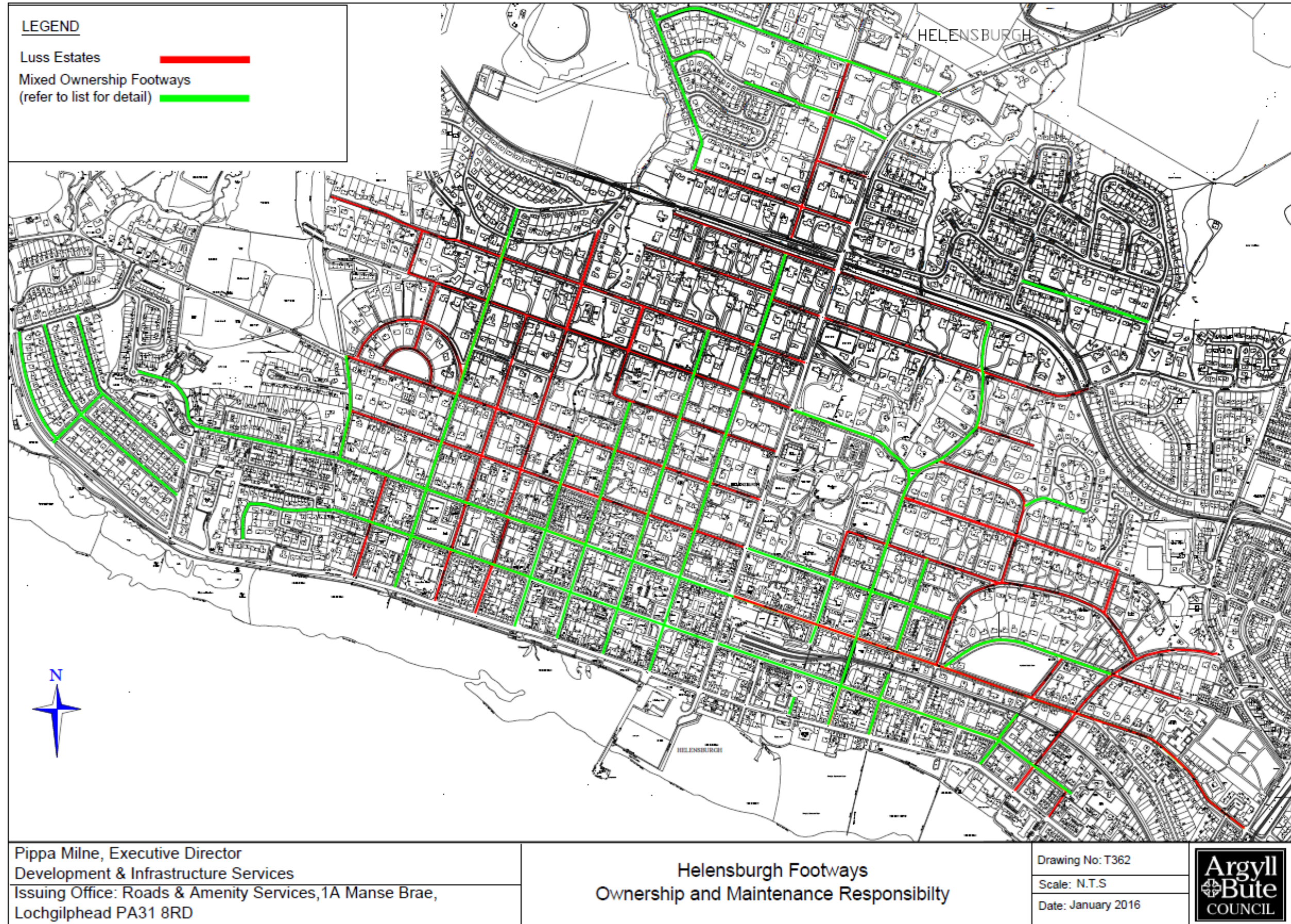
Appendix 1 – Plan of adopted carriageways where verges and footways remain private

Appendix 2 – List detailing mixed ownership of footways

Appendix 3 – Draft wording for Council Website



Appendix 1





## Appendix 2 – Detail of mixed ownership of footways

### PUBLIC/PRIVATE FOOTWAYS

1. Adelaide Street, Helensburgh  
Left footway only public from East Princes Street to cul-de-sac and including cul-de-sac
2. Ardencaple Drive, Helensburgh  
Left and right footway public from junction of Castle Avenue to junction of Cumberland Avenue
3. Blackhill Drive, Helensburgh  
All footways public with the exception of right hand footway from north side of West Lennox Drive to a point 55 metres northwards
4. Castle Avenue, Helensburgh  
Only public footway on left hand side from Loch Drive to Ardencaple Drive
5. Charlotte Street, Helensburgh  
Public only from East Clyde Street to East Princes Street
6. Colquhoun Street, Helensburgh  
Right hand footway public from West Clyde Street to West Argyll Street left hand footway public from West Clyde Street to West King Street
7. East Argyll Street, Helensburgh  
Left hand footway from a point 120m from Sinclair Street to Grant Street right hand footway public from Sinclair Street to Grant Street
8. East King Street, Helensburgh  
Left and right footways public from Sinclair Street to Charlotte Street then private from Charlotte Street to hospital access then public from hospital access to Old Luss Road
9. East Lennox Drive, Helensburgh  
Left hand footway public from Bain Crescent to retaining wall right hand footway public from Bain Crescent to Easterhill Road
10. East Princes Street, Helensburgh  
Left hand footway public from Sinclair Street to Lomond Street then private from Lomond Street to no.99 then public from no.99 to Adelaide Street thereafter private.  
Right hand footway public from Sinclair Street to Adelaide Street thereafter private
11. Grant Street, Helensburgh  
Right and left footway public from East Clyde Street to East Argyll Street thereafter private
12. James Street, Helensburgh  
Both footways public from West Clyde Street to West King Street otherwise private



13. John Street, Helensburgh  
Both footways public from West Clyde Street to West King Street otherwise private
14. Kennedy Drive, Helensburgh  
Right hand footway private from Sinclair Street to "Hillview" then public from "Hillview" to Blackhill Drive. Left hand footway public from Redclyffe Gardens to Blackhill Drive
15. Kidston Drive, Helensburgh  
Left and right footway public from junction of Castle Avenue to junction of Cumberland Avenue
16. King Crescent, Helensburgh  
Right hand footway public from East King Street to Adelaide Street otherwise private
17. Loch Drive, Helensburgh  
Left and right footway public from junction of Castle Avenue to junction of Cumberland Avenue
18. Lomond Street, Helensburgh  
Right hand footway public from East Clyde Street to house no.6 thereafter private left hand footway private
19. Monaebrook Place, Helensburgh  
Public only on right hand side from Marmion Avenue to no.1 otherwise private
20. St Michael's Drive, Helensburgh  
Left hand footway private. Right hand footway public from no.22 Albert Drive westwards to no.1 Albert Drive then private thereafter
21. Suffolk Street, Helensburgh  
Both footways private from West Clyde Street to Barclay Drive then public from Barclay Drive to Edward Drive
22. Victoria Road, Helensburgh  
Right hand footway public from Sinclair Street to no.8 Prince Albert Terrace otherwise private
23. West Dhuhill Drive  
Left hand footway from Blackhill Drive to no.30 public otherwise private right hand footway from Blackhill Drive to no.37 public otherwise private
24. West King Street, Helensburgh  
Left hand side footway public from Sinclair Street to William Street then private from William Street to Woodend Street then public from Woodend Street to Fraser Avenue right hand footway public from Sinclair Street to William Street then private from William Street to no.126 then public from no.126 to Fraser Avenue
25. West Princes Street  
Left hand footway public from Sinclair Street to William Street then private from William Street to no.97 then public from no.97 to no.101 then private from no.101 to no.139 then public

from no.139 to no.159 right hand footway public from Sinclair Street to William Street then private from William Street to no.196 then public from no.196 to no.224

26. William Street

Left and right footways public from West Clyde Street to West King Street then private to West Montrose Street

27. Woodend Street, Helensburgh

Right hand footway private from West King Street to West Montrose Street left hand footway private from West King Street to Bannachra Drive then public to West Montrose Street

### Appendix 3 – Draft Wording for Council Website

- Within Helensburgh there are a number of areas where the carriageways are adopted and maintained by the Council, where adjacent footpaths and footways are unadopted.
- The public have a right to pass and re pass across these footpaths and footways, however, the Council is not responsible for these areas. As a general rule, the landowner is responsible for maintenance and any associated liabilities for these areas.
- Individual frontagers should consult their title deeds and/or seek legal advice regarding any liability they may have.
- The plan below details the unadopted footways shaded red where owned by Luss Estates, and green where there is mixed ownership of footways.
- The Council can only consider the adoption of roads or footways in exceptional circumstances, if deemed by the Council to be in the public interest. The existing unadopted footway would need to be brought up to a standard proportionate to its anticipated use and the anticipated volume and type of traffic, and to a specification whereby the road should not require any maintenance other than routine cyclic maintenance in the first 15 years following its adoption. Owners or frontagers would normally be expected to meet the full cost of making up the road to an adoptable standard.