

REPORT TO: Audit and Governance Committee

MEETING DATE: 17 March 2015

BY: Chief Executive

SUBJECT: Development Risk Register

1 PURPOSE

- 1.1 To present to the Audit and Governance Committee the Development Risk Register (Appendix 1) for discussion, comment and noting.
- 1.2 The Development Risk Register has been developed in keeping with the Council's Risk Management Strategy and is a live document which is reviewed and refreshed on a regular basis, led by the Development Local Risk Working Group (LRWG).

2 RECOMMENDATIONS

- 2.1 It is recommended that the Audit and Governance Committee notes the Development Risk Register and in doing so, the Committee is asked to note that:
 - the relevant risks have been identified and that the significance of each risk is appropriate to the current nature of the risk
 - the total profile of the Development risk can be borne by the Council at this time in relation to the Council's appetite for risk
 - although the risks presented are those requiring close monitoring and scrutiny over the next year, many are in fact longer term risks for Development and are likely to be a feature of the risk register over a number of years

3 BACKGROUND

- 3.1 The Risk Register has been compiled by the Development LRWG. All risks have been evaluated using the standard (5x5) risk matrix which involves multiplying the likelihood of occurrence of a risk (scored 1-5) by

its potential impact (scored 1-5). This produces an evaluation of risk as either 'low (1-4)', 'medium' (5-9), 'high' (10-19) or 'very high' (20-25).

3.2 The Council's response in relation to adverse risk or its risk appetite is such that:

- Very High risk is unacceptable and measures should be taken to reduce, transfer or treat the risk to a more tolerable position;
- High risk may be tolerable providing the Council is assured that adequate and effective control measures are in place;
- Medium risk is tolerable with control measures that are cost effective;
- Low risk is broadly acceptable without any further action to prevent or mitigate risk.

3.3 The current Development Risk Register includes no Very High risks, 15 High risks, 34 Medium risks and 10 Low.

3.4 A copy of the risk matrix used to calculate the level of risk is attached as Appendix 2 for information.

4 POLICY IMPLICATIONS

4.1 In noting this report the Council will be ensuring that risk management principles, as detailed in the Corporate Risk Management Strategy are embedded across the Council.

5 EQUALITIES IMPACT ASSESSMENT

5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial – It is the consideration of the Development Local Risk Working Group that the recurring costs associated with the measures in place for each risk are proportionate to the level of risk. The financial requirements to support the Risk Register for the year ahead should be met within the proposed budget allocations. Any unplanned and unbudgeted costs that arise in relation to any of the corporate risks identified will be subject to review by the Corporate Management Team.

6.2 Personnel – There are no immediate implications.

6.3 Other – Effective implementation of this register will require the support and commitment of the Risk Owners identified within the register.

7 BACKGROUND PAPERS

7.1 Appendix 1 – Development Risk Register

7.2 Appendix 2 – Risk Matrix

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DATE	5 March 2015

Development Risk Register

Date reviewed: 5th March 2015

Risk ID No. & Status S/C/N (same, changed, new)	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures (currently in place)	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Risk Owner	Timescale for Completion / Review Frequency	Single Outcome Agreement Outcome Number Link	Evidence held of Regular Review
			Likelihood (Probability)	Impact (Severity)	Risk Rating		Likelihood (Probability)	Impact (Severity)	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
D 1	<p>Increase in fuel poverty due to a variety of factors:</p> <ul style="list-style-type: none"> - Increase in fuel prices - Impact of welfare reform - Changing householder economic/financial situation <p>This will make it difficult to meet the Scottish Government's target to eradicate fuel poverty by 2016 and is likely to place additional pressure on existing services.</p>	<p>Home Energy Efficiency Programme for Scotland: Area Based Scheme (HEEPS:ABS) in place, delivering:</p> <ul style="list-style-type: none"> • External wall insulation project • Hard to treat cavity wall insulation project • Prestonpans health check project <p>Energy advice and fuel debt support in place.</p> <p>Increasing energy efficiency standards in council housing stock. Deliver the Scottish Housing Quality Standard (SHQS) by 2015 end meet EESH by 2020.</p>	5	3	15	<p>Improve knowledge of the levels, extent and nature of fuel poverty and target resources to the worst affected areas.</p> <p>HEEPS: ABS allocation awarded for 2015-16. Programme will deliver £907,782 worth of insulation measures to the worst affected areas to include</p> <ul style="list-style-type: none"> • Energy efficiency and fuel poverty advice measures to improve health outcomes • Insulation measures to traditional properties in off gas areas <p>Complete programme for removal and replacement of solid fuel systems for ELC properties.</p>	5	2	10	<p>Service Manager – EDSI</p> <p>Service Manager – Engineering Services and Building Standards</p>	Ongoing review.	6, 10	Risk refreshed by Service Manager November 2014 with Residual risk score increased from 12 to 15 due to lack of effective additional inputs to implement.
D 2	<p>Supply of affordable housing is outstripped by need and demand. Impacting on rising numbers on the Councils Housing Register and increased risk of arising Homeless applications.</p> <p>Insufficient land in control of affordable housing providers due to limited amount of Council owned land and difficulty in competing on the open market to purchase land due to high land prices. Much of land in East Lothian tied up in options to private housing developers, leading to an inability to control provision of new affordable housing and reliance on planning policy for affordable housing to deliver land.</p> <p>Government Resource Planning Assumptions (RPAs) have now been announced for the 2015/16 – 2017/18 programme. This is a reduced programme which will present challenges in the delivery of social rented housing. Registered Social Landlords (RSLs) continue to operate in a complex financial environment. The Council has also reduced funding for its own new build affordable housing programme.</p>	<p>The Council continues to pursue opportunities to acquire land/bring forward private projects for affordable housing.</p> <p>Research commissioned into intermediate housing tenures</p> <p>The Council is in discussion with RSLs and other organisations about delivering non-social rent affordable housing models without grant.</p>	5	3	15	<p>Purchase of two small sites by the HRA from General Services Account.</p> <p>Increased 2015/16 – 2017/18 budget for Affordable Housing within ELC Housing Capital plan.</p> <p>Review underway of S75 co-ordination. Aim to secure greater project management control and delivery of Strategic Sites.</p> <p>Work with SESplan authorities and Government to examine planning policies to positively influence the delivery of appropriate affordable housing through private housing development.</p> <p>Complete research into intermediate tenures in East Lothian.</p> <p>Identify alternative delivery models and engage with partners to deliver.</p>	4	3	12	Service Manager - EDSI	March 2015	9	Risk refreshed by Service Manager November 2014

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D 3	Failure to Manage Solid Fuel safety on all Solid Fuel Installations in ELC Housing Properties leading to potential CO poisoning of tenants and increased risk of house fires with potential risk of prosecution. Chimneys are generally in poor condition and ELC are unable to control fuels being burnt in solid fuel appliances	Programme of Solid Fuel Servicing exists but risk has increased as Contractor has currently gone into receivership. Heating replacements to energy efficient, low carbon alternative fuels are available and being installed with available RHPP /RHI funding but implementation is difficult.	3	5	15	Complete programme for removal and replacement of solid fuel systems. Source alternative servicing contractor meantime.	2	5	10	Service Managers – Engineering Services and Building Standards Community Housing	Contract Appointment March 2015.	7,9	Refreshed Feb'15 - risk score increased from 12 to 15 and residual score from 0 to 10 - heightened risk.
D 4	Failure to comply with Public Buildings Statutory Electrical Testing may expose the Council to legal proceedings, financial loss, service reduction, damage to its reputation and potential injury/loss of life of public building users. Failure to make sufficient finance available to carry out testing and implement recommendations may result in all of the above.	Performance will be monitored through the Condition SPIs, Asset Performance monitoring and regular Electrical Test results. Funding required from limited Property Renewals budget to address identified remedial works in public buildings. Full PAT testing programme currently in place for all public buildings.	3	5	15	Accelerate programme for testing. Tender accepted for testing all public buildings and testing and remedial works underway. Contractors' reports reviewed on ongoing basis to assist in identification of significant risks in order to reprioritise works programme and spend.	2	5	10	Service Manager – Engineering Services and Building Standards	Service Review Underway anticipated completion April 2015 Review Annually thereafter	7	Risk Refreshed February 2015
D 5	Reliance on private sector to deliver land for housing in difficult economy results in sites that are slow to come forward. Private sector own/have legally binding contracts in place for the significant land allocations in East Lothian (4800 units to be delivered across 6 sites, 1200 affordable). Current economic conditions including difficulty in private businesses accessing credit and difficulty in potential house purchasers accessing mortgages mean that private developers do not want to develop sites or if they do, they wish to do this slowly. If private developers do not want to develop sites, no affordable housing will be delivered and the area will not benefit from this economic activity. The infrastructure required to bring forward sites is also causing private developers concern as funding available to them is not sufficient to deliver these requirements.	The Council continues to work with all developers in East Lothian to meet and discuss site specific issues in relation to delivery with a view to developing arrangements to unlock housing development. The Council is in discussion with Scottish Government to identify ways of overcoming barriers to delivery of housing land.	5	3	15	Review the Council's Affordable Housing Policy. Work with others to help enable development e.g. Scottish Government Accelerated Housebuilder Loan Fund. In partnership with other local authorities in the region, the Council is committed to working up a business case for 'City Deal'	4	2	8	Acting Head of Development	October 2015 March/April 2015	10	Risk refreshed by Service Manager February 2015 with Residual score reduced from 10 to 8.
D 6	Financial constraints placed on the Council could lead to the Building Standards Team not being able to maintain a level of staff that is adequately qualified, trained and competent to carry out the Building Standards duties of verification, enforcement, licensing etc. to the targets expected BSD's new performance framework. This could impact on service levels and result in an audit by the BSD that could lead to the	Monitoring of workload to fee income, performance to staffing levels and project complexity to staff abilities and training. Involvement with the Local Authority Building Standards Scotland (LABSS) and the BSD to influence delivery of the new performance framework of 9 performance outcomes and a risk based inspection regime for Reasonable Inquiry to deliver compliance with the building regulations. Preparation of the Building	3	4	12	Measure impact of BSD's new performance framework, workload, employee costs for appraisal of warrants, acceptance of completion certificates and enforcement duties for varying project size and complexity to compare against fee income. Thereafter, carry out a Service Review to take into account all factors and so determine	2	4	8	Service Manager – Engineering Services and Building Standards	Service Review Underway anticipated completion April 2015 Review Annually thereafter	7	Risk Refreshed November 2014 and residual risk score reduced from 12 to 8.

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	Council losing the verification role.	Standards Team and review of its resources to align with the requirements and implementation of the new performance framework.				optimum staffing levels.							
D 7	Higher enforcement workload in terms of dangerous buildings for Officers due to various reasons (including increasing instances of severe weather and owners unable to maintain their properties) resulting in increased risk to members of the public.	Climatic and financial factors are outwith East Lothian Council's control. No contractual obligation for staff to provide an out of hours dangerous buildings service which therefore relies on the goodwill of the BS Manager and two Principal BS Surveyors to provide cover outwith office hours.	3	4	12	Service Review underway to consider : <ul style="list-style-type: none"> the appointment of an enforcement surveyor; The provision of an arrangement to cover for dangerous buildings callouts out-with office hours. 	2	4	8	Service Manager – Engineering Services and Building Standards	Service Review Underway anticipated completion April 2015	7	Risk Refreshed February 2015 with current score reduced from 15 to 12 and residual score from 10 to 8.
D 8	Failure to obtain adequate funding for Property Repairs and Renewals could have the possible consequence of a failure of building elements with the risk of closure or enforcement by Statutory or Regulatory authorities and could result in injury/serious injury.	Annual update of programme of works based on Condition, Suitability and Statutory Compliance assessments to inform budget requirement.	3	4	12	Ensure Condition and other data is maintained up to date to inform the planned delivery of works required to ensure buildings comply with statutory and legal requirements and are maintained in good condition.	2	4	8	Service Manager – Engineering Services and Building Standards	3 / 5 Year Programme to start April 2015	7	Current Risk scores reduced from 16 to 12 February 2015.
D 9	Asset data for operational properties is not current resulting in insufficient information to prioritise planned investment in buildings and potential risk to occupants, contractors and members of the public at risk from failure of building elements or systems.	Limited annual desktop updates undertaken to determine the extent of work carried out to buildings but lack of up-to-date Condition Surveys means that we are not recording gradual deterioration of assets.	3	4	12	Prioritise resources, to undertake comprehensive 5 yearly reviews.	2	4	8	Service Manager – Engineering Services and Building Standards	The Condition Surveys of Operational properties will be procured and rolled out in 2015.	7	Risk Refreshed February 2015.
D 10	Unsuccessful recruitment to the post of Schools Estate Planning Officer places additional pressure on the Service Manager and the Schools Estates Team, to maintain the functions of the service meantime. The pressures and constraints arising from this could lead to delays in responding to planning applications for housing developments and consequent risk of appeal by applicants.	S75 Policy and process in development. Team roles and responsibilities identified.	3	4	12	Regular monitoring of planning applications and responses. Programme resource to respond to strategic site infrastructure requirements as part of the planning process. Review focus of Schools Estate Planning Officer post and seek to recruit again.	2	4	8	Service Manager - Strategic Asset & Capital Plan Mgmt	Autumn 2015	9, 10	Risk refreshed February 2015 by Service Manager.
D 11	Risk to uncertainty with forward planning for the expansion of the school estate, where school capacities may be breached earlier than anticipated.	School roll projections are reviewed against school capacities. School expansion programme prepared and costed to inform Capital Plan.	3	4	12	Scheduled meetings with Education where the baseline demographic information and the impact of development on school rolls and capacities are reviewed. Review underway of S75 co-ordination.	2	4	8	Service Manager - Strategic Asset & Capital Plan Mgmt	April 2015	9.10	New risk added February 2015 by Service Manager.
D 12	Failure to comply with Control of Asbestos at Work Regulations could lead to a risk of prosecution and potential exposure to building users, contractors or members of the public. Inclusion of Housing surveys has significantly increased workload to an	Policies and procedures in place and administered by Asbestos Manager in accordance with statutory requirements. Workload currently being prioritised to maintain planned programme.	3	4	12	Systems and management arrangements being revised through Service review to separate Housing and Non-Housing Asbestos Management.	2	3	6	Service Managers – Engineering Services and Building Standards	Service Review Underway anticipated completion April 2015	7	Risk Refreshed February 2015 by Head of Development and Residual score reduced

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	unmanageable level.								Community Housing Property Maintenance				from 8 to 6.
D 13	<p>A major outbreak of food poisoning or a public health incident could result in serious illness or fatalities to the public. If such an incident is not adequately responded to this could:</p> <ul style="list-style-type: none"> allow the outbreak or incident to remain unidentified or continue for longer than necessary impact on public and business confidence within East Lothian. cause a reputational risk for the Council if the incident response was unsatisfactory attract significant media interest (local & national). result in a public enquiry/formal investigation into the incident which would impact on the deployment of Council resources to carry out day to day work. cause a significant increase in workload as any enquiry/investigation could run for several years. cause third party insurance claims to be made against the Council. <p>Environmental Health is currently delivered via a pilot partnership with Midlothian Council. The formal review of the partnership (Feb 2015) has concluded that it cannot continue in its current form and that a permanent mechanism to deliver the services within ELC must be identified and implemented.</p>	<p>Environmental Health is currently delivered via an EH&TS pilot partnership with Midlothian Council. In agreeing to unwind the partnership, a transition period has been agreed to 31st May to allow ELC to develop and implement appropriate management and delivery arrangements. This ensures the continuation of:</p> <ul style="list-style-type: none"> Appointment of sufficient authorised officers to regulate food businesses through a food safety inspection programme including enforcement action where controls are known to have broken down or have been breached including sampling Service delivery is conducted by a trained and competent food safety team. There is a rigorous monitoring of water supplies. The business plan and inspection process are reviewed annually. Established major/ incident response arrangements with NHS Lothian. The Council has a major incident plan which may be activated. 	2	5	10	<p>Carefully manage the arrangements to unwind the partnership including transition arrangements.</p> <p>Develop and implement a management establishment and staffing structure to ensure ELC delivery arrangements are in place to satisfy the requirements of the service.</p>	2	5	10	Acting Head of Development	Board decision to be taken by 31.03.15	1, 5, 7	Reviewed & updated Jan 2015

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D 14	<p>Failing to respond satisfactorily to a major incident, death or serious personal injury in local businesses and organisations under the Council's Health & Safety enforcement regime could result in reputational risk to the Council.</p> <p>There could be</p> <ul style="list-style-type: none"> Allow the occurrence to remain unidentified or continue for longer than necessary giving further risk to life and limb if a situation remains unresolved impact on public and business confidence within East Lothian. cause a reputational risk for the Council if the incident response was unsatisfactory attract significant media interest (local & national). result in a public enquiry/formal investigation into the incident which would impact on the deployment of Council resources to carry out day to day work. cause third party insurance claims to be made against the Council <p>Environmental Health is currently delivered via a pilot partnership with Midlothian Council. The formal review of the partnership (Feb 2015) has concluded that it cannot continue in its current form and that a permanent mechanism to deliver the services within ELC must be identified and implemented.</p>	<p>Environmental Health is currently delivered via an EH&TS pilot partnership with Midlothian Council. In agreeing to unwind the partnership, a transition period has been agreed to 31st May to allow ELC to develop and implement appropriate management and delivery arrangements. This ensures the continuation of:</p> <ul style="list-style-type: none"> Appointment of sufficient authorised inspectors to investigate incidents and regulate duty holders through health & safety and trading standards inspection programmes. Associated enforcement action is taken where it is identified that controls have broken down or have been breached. Enforcement is conducted by a trained and competent food safety and trading standards teams with ongoing CPD requirements. The business plan and inspection process are reviewed annually. Specialist knowledge and expertise may be sought from partners including HSE if appropriate. 	2	5	10	<p>Carefully manage the arrangements to unwind the partnership including transition arrangements.</p> <p>Develop and implement a management establishment and staffing structure to ensure ELC delivery arrangements are in place to satisfy the requirements of the service.</p>	2	5	10	Acting Head of Development	Board decision to be taken by 31.03.15	1, 5,7	Risk updated January 2015 by Environmental Health Partnership Manager, both current and residual scores increased from 8 to 10.
D 15	<p>Failure to comply with statutory Water & Air Hygiene monitoring and testing may expose the Council to legal proceedings, financial loss, service reduction, damage to its reputation and potential injury or loss of life to building users through Legionella.</p> <p>Failure to make sufficient finance available to carry out testing and implement recommendations may result in the above.</p>	<p>Performance will be monitored through risk assessment and regular inspection and testing. Funding required from the limited Property Renewals budget to address identified remedial works in public buildings.</p>	2	5	10	<p>Extend programme for risk assessment, maintenance and testing to cover all buildings on a risk basis now that APUC Framework is in place.</p> <p>Existing contractors risk assessments and reporting being reviewed on ongoing basis.</p>	2	4	8	Service Manager – Engineering Services and Building Standards	<p>Service Review Underway anticipated completion April 2015</p> <p>Review Annually thereafter</p>	7	Risk Refreshed February 2015 with current score reduced from 15 to 10 and residual score from 10 to 8.
Original date produced (V1)		6 th May 2014									Risk Score	Overall Rating	
File Name		Development Risk Register									20-25	Very High	
Original Author(s)		Scott Kennedy, Risk Officer									10-19	High	
Current Revision Author(s)		Scott Kennedy, Risk Officer									5-9	Medium	

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												1-4	Low
Version	Date	Author(s)	Notes on Revisions										
1	06/05/2014	S Kennedy	Former Housing and Environment Risk Register altered to become the Development Risk Register with risks transferred in and out following realignment.						Original Version				
2	28/10/2014	S Kennedy	Testing & Regulation Risks updated										
3	November and December 2014	S Kennedy	Economic Development & Strategic Investment Risk Updated along with Planning Risks and Engineering Services & Building Standards Risks										
4	January-February 2015	S Kennedy	Trading Standards and Environmental Health Partnership risks refreshed along with Strategic Asset & Capital Plan Management risks. Further refresh of Engineering Services & Building Standards and Economic Development & Strategic Investment Risk Risks. Final review undertaken by Head of Development 24-2-15.										

Appendix 2
East Lothian Council
Risk Matrix

Likelihood Description

Likelihood of Occurrence	Score	Description
Almost Certain	5	Will undoubtedly happen, possibly frequently >90% chance
Likely	4	Will probably happen, but not a persistent issue >70%
Possible	3	May happen occasionally 30-70%
Unlikely	2	Not expected to happen but is possible <30%
Remote	1	Very unlikely this will ever happen <10%

Impact Description

Impact of Occurrence	Score	Description						
		Impact on Service Objectives	Financial Impact	Impact on People	Impact on Time	Impact on Reputation	Impact on Property	Business Continuity
Catastrophic	5	Unable to function, inability to fulfil obligations.	Severe financial loss (>5% budget)	Single or Multiple fatality within council control, fatal accident enquiry.	Serious - in excess of 2 years to recover pre-event position.	Highly damaging, severe loss of public confidence, Scottish Government or Audit Scotland involved.	Loss of building, rebuilding required, temporary accommodation required.	Complete inability to provide service/system, prolonged downtime with no back-up in place.
Major	4	Significant impact on service provision.	Major financial loss (3-5% budget)	Number of extensive injuries (major permanent harm) to employees, service users or public.	Major - between 1 & 2 years to recover pre-event position.	Major adverse publicity (regional/national), major loss of confidence.	Significant part of building unusable for prolonged period of time, alternative accommodation required.	Significant impact on service provision or loss of service.
Moderate	3	Service objectives partially achievable.	Significant financial loss (2-3% budget)	Serious injury requiring medical treatment to employee, service user or public (semi-permanent harm up to 1yr), council liable.	Considerable - between 6 months and 1 year to recover pre-event position.	Some adverse local publicity, limited damage with legal implications, elected members become involved.	Loss of use of building for medium period, no alternative in place.	Security support and performance of service/system borderline.
Minor	2	Minor impact on service objectives.	Moderate financial loss (0.5-2% budget)	Lost time due to employee injury or small compensation claim from service user or public (First aid treatment required).	Some - between 2 and 6 months to recover.	Some public embarrassment, no damage to reputation or service users.	Marginal damage covered by insurance.	Reasonable back-up arrangements, minor downtime of service/system.
None	1	Minimal impact, no service disruption.	Minimal loss (0.5% budget)	Minor injury to employee, service user or public.	Minimal - Up to 2 months to recover.	Minor impact to council reputation of no interest to the press (Internal).	Minor disruption to building, alternative arrangements in place.	No operational difficulties, back-up support in place and security level acceptable.

Risk	Impact				
	None (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Almost Certain (5)	5	10	15	20	25
Likely (4)	4	8	12	16	20
Possible (3)	3	6	9	12	15
Unlikely (2)	2	4	6	8	10
Remote (1)	1	2	3	4	5

Key

Risk	Low	Medium	High	Very High
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