

REPORT TO: Audit and Governance Committee

MEETING DATE: 22 March 2016

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 13 High risks, 33 Medium risks and 9 Low Risks. As per the Council's Risk Strategy only Very High and High risks are being reported to the Committee.

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	10 March 2016

Development Risk Register

Date reviewed: 10th March 2016

Risk ID	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	Impact	Risk Rating		Likelihood	Impact	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. 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 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> <p>Review strategic approach through production of new Local Housing Strategy.</p>	4	3	12	Service Manager – Economic Development & Strategic Investment (EDSI)	<p>2015/16 programme due to complete at the end of March 2016 (currently 98% complete). Bid for 2016/17 for grant fund for private sector properties to be submitted by March 2016.</p> <p>90% Complete</p> <p>March 2017</p>	6, 10	Risk refreshed by Service Manager February 2016.
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 the land in East Lothian is 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) for 2016/17 programme are due to be announced early March 2016 with additional resources have been made available for 2015/16. The Scottish Government recently announced an increase in their subsidy targets which will help with the delivery of social rented housing. Registered Social Landlords (RSLs) will now need to carry out capacity studies to determine what this means for them.</p> <p>The Council is also eligible for an increase in unit subsidy and will need time to determine the impact this may have for its own new build programme.</p>	<p>The Council continues to pursue opportunities to acquire land/bring forward private projects for affordable housing.</p> <p>Research completed into intermediate housing tenures</p> <p>The Council continues deliver and to discuss with RSLs and other organisations non-social rent affordable housing models without grant.</p>	5	3	15	<p>Site purchased by HRA from General Services</p> <p>Increased 2015/16 – 2016/17 funding from the Scottish Government.</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>Contribute to and influence independent review of planning system</p> <p>Contribute to and influence Scottish Government land reform review</p> <p>Identify alternative delivery models and engage with partners to deliver.</p>	4	3	12	<p>Head of Development</p> <p>Service Manager - EDSI</p>	<p>March 2016</p> <p>March 2016</p> <p>December 2017</p> <p>May 2016</p> <p>March 2017</p> <p>September 2016</p>	9	Risk refreshed by Service Manager December 2015.

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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. Heating replacements to energy efficient, low carbon alternative fuels are available and being installed with available RHPP /RHI funding but implementation is difficult. Servicing contractor in place for removal and replacement of solid fuel systems.	3	5	15	Programme for removal and replacement of solid fuel systems has begun.	2	5	10	Service Managers - Engineering Services & Building Standards (ESBS) & Community Housing	April 2016	7,9	Risk refreshed January 2016. Refreshed Feb'15 - risk score increased from 12 to 15 and residual score from 0 to 10.
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. Contractors' reports reviewed on ongoing basis.	3	5	15	Accelerating programme for testing. Testing and remedial works regime in place for all public buildings.	2	4	8	Service Manager -ESBS	March 2017	7	Risk Refreshed February 2016 by Head of Service and residual risk score reduced from 10 to 8.
D 5	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 Council losing the verification role. A service review was carried out February 2015 following which posts were advertised but unable to be filled.	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 Standards Team and review of its resources to align with the requirements and implementation of the new performance framework. Agency support staff in place.	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 further Service Review to take into account all factors and so determine optimum staffing levels. Service Manager currently working on this with HR.	2	4	8	Service Manager -ESBS	March 2017	7	Risk refreshed January 2016. Risk Refreshed November 2014 and residual risk score reduced from 12 to 8.
D 6	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. Agency support staff in place.	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. Out of Hours services currently being reviewed. Service Review to be carried out, taking into account all factors and to determine optimum staffing levels. Service Manager currently working on this with HR.	2	4	8	Service Manager -ESBS	March 2017	7	Risk Refreshed January 2016. Risk Refreshed February 2015 with current score reduced from 15 to 12 and residual score from 10 to 8.

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D 7	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. Although budgets have not reduced (approved budget Feb'16), prices are increasing and adoption of new facilities e.g. school extensions mean a real term reduction in resource and availability.	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 –ESBS	Rolling Programme in place.	7	Risk refreshed January 2016. Current Risk scores reduced from 16 to 12 February 2015.
D 8	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 carried out on existing data informed by feedback from maintenance team.	3	4	12	Allocate resources, internal or external, as required to undertake comprehensive 5 yearly reviews.	2	4	8	Service Manager –ESBS	Rolling Programme in place.	7	Risk Refreshed January 2016.
D 9	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 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 and the Service is still covering the activities with a reduced resource.	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. The timing of recruitment and the nature of the post will need to be reviewed in the light of the likely retirement of the PPP Manager/Schools Estate Team Manager during 2016. Review underway of S75 co-ordination. Aim to secure greater project management control and delivery of Strategic Sites.	2	4	8	Service Manager - Strategic Asset & Capital Plan Mgmt	June 2016	9, 10	Risk refreshed February 2016 by Service Manager. Further review to take place April 2016 with a view to recruitment by June 2016.
D 10	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. Changes in established roll projections are highlighted to Education if school capacities are projected to be breached and strategy for managing risk agreed if no provision or budget is in place for school expansion.	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	June 2016	9.10	New risk added February 2015 by Service Manager and further reviewed February 2016.
D 11	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: <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 	Appointment, development and retention 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.	2	5	10	Staffing structure revised to deliver on a routine basis, with an enhanced capability to respond in emergencies to satisfy the requirements of the Service.	2	4	8	Environmental Health Service Manager	September 2016	1, 5, 7	Risk refreshed November 2015 with residual score reduced from 10 to 8.

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	<p>confidence within East Lothian.</p> <ul style="list-style-type: none"> 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>The business plan and inspection process are reviewed annually.</p> <p>Established major/ incident response arrangements with NHS Lothian.</p> <p>There is a rigorous monitoring of water supplies.</p> <p>Service delivery is conducted by trained and competent Environmental Health Officers and Food Safety Officers.</p> <p>The Council has a major incident plan which may be activated.</p>											
D 12	<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>Appointment, development and retention of sufficient authorised inspectors to investigate incidents and regulate duty holders through health & safety inspection and intervention programmes.</p> <p>Associated enforcement action is taken where it is identified that controls have broken down or have been breached.</p> <p>Enforcement is conducted by trained and competent Environmental Health Officers with ongoing CPD requirements.</p> <p>The business plan and inspection process are reviewed annually.</p> <p>Specialist knowledge and expertise may be sought from partners including HSE if appropriate.</p>	2	5	10	Staffing structure devised to deliver on a routine basis, with an enhanced capability to respond in emergencies to satisfy the requirements of the Service.	2	4	8	Environmental Health Service Manager	September 2017	1, 5,7	Risk refreshed January 2016.
D 13	<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. Failure to make sufficient finance available to carry out testing and implement recommendations may result in the above. Now sharing framework agreement for Advanced Procurement for Universities & Colleges (APUC) giving us a further means of procurement to enable further works to take place and reduce the risk.</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> <p>Existing contractors risk assessments and reporting being reviewed on ongoing basis.</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>Transition of Housing Management areas to new Housing Asset team.</p>	2	4	8	Service Manager –ESBS	March 2017 March 2016	7	<p>Risk refreshed January 2016.</p> <p>Risk Refreshed February 2015 with current score reduced from 15 to 10 and residual score from 10 to 8.</p>

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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	
														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.													
5	December 2015 – January 2016	S Kennedy	Environmental Health, Economic Development & Strategic Investment, Engineering Standards & Building Services and Planning risks refreshed.													
6	February 2016	S Kennedy	Review and refresh by Head of Development.													

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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