

REPORT TO: Audit and Governance Committee

MEETING DATE: 14 March 2017

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, 29 Medium risks and 12 Low Risks. As per the Council's Risk Strategy only the 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 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

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	2 March 2017

Development Risk Register

Date reviewed: 3rd March 2017

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 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>BREXIT – potential loss of funding</p> <p>East Lothian Council directly benefit from European funding interventions as outlined below. In addition, advice given to businesses in relation to the export of goods and services and European legislation impact on businesses and public sector are other considerations. Local farming businesses will have access to outstanding £360m Scottish Common Agricultural Policy (CAP) funding and Scottish fishing businesses to the £60m European Maritime and Fisheries fund. There are a number of other programmes to which the public sector, further and higher education and small businesses can access – including Interreg, COSME, Life, Horizon 2020, Erasmus.</p> <p>In relation to the 2014-20 European Structural and Investment monies for East Lothian Council:</p> <p>The Business Gateway Plus programme provides range of consultancy and financial support and business growth seminars from 1 January 2016 for 3 years. The total financial investment is £1.03m with £621,942 from East Lothian Council and ERDF (European Regional Development Fund) of £414,628. The target outputs of 739 interactions and engagements with East Lothian small- and medium-sized businesses – grant support to 121 companies, consultancy support to 123 and 495 attending events and workshops.</p> <p>An enhanced employability service is delivered through a European Social and Investment Fund Strategic Investment Grant to East Lothian Council. The pipeline is characterised by five stages and a range of available support for different groups of young people and adults on their journey towards and into sustained employment. Activity focuses on specific support for people facing multiple barriers to employment within the strategic pipeline. Project activity is until the end of December 2018 and funding is via three operations:</p> <ul style="list-style-type: none"> • Lead Partner Management Costs – £236,462 (ESF grant £94,585) • Employability Pipeline - £1,182,800 (ESF grant £473,120) • Challenge Fund - £300,000 (ESF grant £180,000) <p>The Tyne/Esk LEADER programme aimed at rural economic development applies to all of East Lothian, except Musselburgh but including Wallyford and Whitecraig, as well as</p>	<p>There appears to be a tacit commitment by the UK Government that this funding will continue to be provided. It is not yet clear whether this will be transferred to Scottish Government to allocate nor how they may choose to distribute the funding.</p> <p>Keep in close contact with COSLA to ensure up to date with latest Brexit developments and participate and influence direction of travel, where possible.</p>				Assess future impact of funding changes on service as specific changes become clearer.				Head of Development Service Manager EDSI	Ongoing monitoring		New risk added February 2017 by Service Manager
			4	4	16		4	4	16				

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	<p>rural Midlothian; £3.14m is available from 2014 to 2020. Fund management is rotated and is currently managed by Midlothian Council on behalf of the community-run Local Action Group. Community and council projects in the eligible area can apply for up to 60% funding, maximum £250,000 and minimum grant of £10,000.</p> <p>The European Maritime and Fisheries Fund, Fisheries Local Action Group (FLAG), is a programme of support to fishing communities with the East Lothian fishing communities (Cockenzie & Port Seton, Dunbar, North Berwick) together with East Berwickshire and East Neuk of Fife communities covered. It is managed by Scottish Borders Council on behalf of three local authority area fishing communities. Total available funding of £1m across the programme area.</p>												
D 2	Risk of adverse financial implications for the Councils capital programme in the light of unpredictable tender price indices following Brexit. This could result in tender returns being higher than cost plans.	Monitoring Tender prices and benchmarking with other authorities.	4	4	16	Incorporate risk allowance within cost planning.	2	4	8	Service Manager - Strategic Asset & Capital Plan Mgmt Corporate Finance Manager	June 2017 then ongoing monitoring		New risk added February 2017 by Service Manager
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 ongoing. Gas supplies now being installed to all Council houses in gas areas to enable rapid replacement when consent received.	2	5	10	Service Managers - Engineering Services & Building Standards (ESBS) & Community Housing	February 2018 to review	7,9	Risk refreshed February 2017 with no change to assessment of risk scores. Feb'15 - risk score increased from 12 to 15 and residual score from 0 to 10.

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D 4	<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 2017/18 programme are due to be announced early 2017 with further year's allocations to follow. The Scottish Government have announced a target of 50,000 affordable homes in the lifetime of this Parliament (35,000 of these to be social rent). This has been accompanied by an increase in funding at a national level allocated to support this.</p>	<p>Regional Housing Programme proposed through South East Scotland City Region Deal.</p> <p>The Council continues to pursue opportunities to acquire land/bring forward private projects for affordable housing.</p> <p>Sites purchased by HRA from General Services.</p> <p>Section 75 Co-ordinator recruited to project manage delivery of strategic sites, including affordable housing contribution.</p> <p>Contribute to and influence review of planning system.</p> <p>Accessed Scottish Government Infrastructure Fund.</p> <p>The Council continues to deliver and to discuss with RSLs and other organisations unsubsidised affordable housing models.</p>	5	3	15	<p>Implement Regional Housing Programme through South East Scotland City Region Deal.</p> <p>Likely increase in Scottish Government funding over the next 3-4 years.</p> <p>Cross-party member event to explore additional activities to support acceleration of delivery of affordable housing.</p>	3	3	9	<p>Head of Development</p> <p>Service Manager - EDSI</p>	<p>April 2027 (10 year programme)</p> <p>March 2017</p> <p>March 2017</p>	9	Risk refreshed by Service Manager February 2017 with residual score reduced from 12 to 9.
D 5	<p>Failure to maintain non-operational properties in compliance with statutory legislation – particularly in relation to Public Buildings Statutory Electrical Testing and inspections – due to insufficient resources may expose the Council to legal proceedings, financial loss, service reduction, damage to its reputation and potential Health and Safety incidents in properties resulting in injury/loss of life of public building users and legal action against the Council.</p> <p>Failure to make sufficient finance available to carry out testing and implement recommendations may result in all of the above.</p>	<p>Performance monitored through the Condition SPIs, Asset Performance monitoring and Electrical Test results. Funding required from limited Property Renewals budget to address identified remedial works in public buildings.</p> <p>Full programme of Portable Appliance Testing and Fixed Electrical Installation Condition Reporting in place for all public buildings.</p> <p>Contractors' reports reviewed on an ongoing basis.</p> <p>Close liaison with and monitoring performance of framework electrical contractor to ensure inspections, reports, cost estimates, works and certification are completed timeously.</p>	3	5	15	<p>Programme for dealing with remedial works identified during EICR testing in place for all public buildings.</p> <p>Review and identify inspection and management resource required within SACPM and Engineering Services.</p>	2	4	8	<p>Service Manager –ESBS</p> <p>Service Manager – Strategic Asset & Capital Plan Mgmt</p>	<p>February 2018</p> <p>February 2017 and review monthly until satisfactory arrangements are in place</p>	7	<p>Risk refreshed February 2017 with no change to assessment of risk scores although non-operational properties information added.</p> <p>Risk Refreshed February 2016 by Head of Service and residual risk score reduced from 10 to 8.</p>
D 6	<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>Scottish Government to review definition of fuel poverty and are due to consult on Regulation of Private Sector housing in respect of energy efficiency.</p>	<p>Home Energy Efficiency Programme for Scotland: Area Based Scheme (HEEPS:ABS) in place, offering targeted energy efficiency measures and fuel poverty advice to private sector stock.</p> <p>Energy advice and fuel debt support in place.</p> <p>Capital Programmes in place for council housing and Registered Social Landlords to increase energy efficiency</p>	4	3	12	<p>Improve knowledge of the levels, extent and nature of fuel poverty and target resources to the worst affected areas.</p> <p>Continue to implement HEEPS: ABS programme.</p> <p>Commence preparation for transition to SEEPS Programme (programme to deliver energy efficiency measures across public, commercial and private sector stock</p>	3	3	9	<p>Service Manager – Economic Development & Strategic Investment (EDSI)</p>	<p>June 2017</p> <p>Rolling annual programme</p> <p>SEEPS implementation in 2020/2</p>	6, 10	Risk refreshed by Service Manager February 2017 with current score reduced from 15 to 12 and residual score from 12 to 9.

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	The impact of living in fuel poverty can place additional pressure on existing services – health, social care, advice, rent income.	measures. Social rented tenure must meet EESH by 2020. Additional funding to accelerate measures secured in 2016/17.				as part of National Infrastructure Priority for Energy Efficiency. Review strategic approach through production of new Local Housing Strategy in particular taking into account current Scottish Government policy review in this area.					Autumn 2017		
D 7	Recruitment constraints faced by 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 during 2016 and implemented. However there is an ongoing inability to recruit suitably qualified BS Surveyors resulting in inability to meet targets.	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.	2	4	8	Service Manager –ESBS	February 2018	7	Risk refreshed February 2017 with no change to assessment of risk scores. Risk Refreshed November 2014 and residual risk score reduced from 12 to 8.
D 8	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. A Service Review was carried out during 2016 and implemented. However there is an ongoing inability to recruit suitably qualified BS Surveyors resulting in inability to meet targets.	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	Working with HR to try and recruit by alternatives means or by re-Training of alternative disciplines. Continue to advertise and contact agencies with a view to filling posts.	2	4	8	Service Manager –ESBS	February 2018 March 2017	7	Risk refreshed February 2017 with no change to assessment of risk scores. Risk Refreshed February 2015 with current score reduced from 15 to 12 and residual score from 10 to 8.
D 9	Repairs and maintenance cost pressures and adoption of new facilities e.g. school extensions mean a real term reduction in resource and availability. This could ultimately result in a failure of building elements with the risk of closure or enforcement by Statutory or Regulatory authorities.	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. Work with other managers/community planning partners to reduce building/accommodation asset base.	2	4	8	Service Manager –ESBS	February 2018 Ongoing – long term	7	Risk refreshed February 2017 with no change to assessment of risk scores. Current Risk scores reduced from 16 to 12 February 2015.
D 10	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	2 nd Phase of 3 Phase building survey now underway. External resources allocated to enable ongoing surveys and comprehensive 5 yearly reviews.	2	4	8	Service Manager –ESBS	February 2018	7	Risk refreshed February 2017 with no change to assessment of risk scores.

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D 11	Risk to uncertainty with forward planning for the expansion of the school estate, where school capacities may be breached earlier than anticipated. This could result in insufficient accommodation for pupils within schools, with consequent appeals from parents and reputational damage.	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 2017	9.10	Risk refreshed February 2017 with no change to assessment of risk scores. New risk added February 2015 by Service Manager and further reviewed February 2016.
D 12	Impact on resources of part 5 – Community Asset Transfer - of the Community Empowerment (Scotland) Act. This will require the preparation and publication of a separate schedule of Common Good land and properties. The Act is anticipated to result in significant additional property enquiries and requests for information, in advance of potential formal noting of interest for transfer of Council assets to community organisations. The Act came into effect in January 2017.	Service Manager named as ELC contact for CAT List of assets available if requested	4	3	12	Council Community Asset Transfer procedures and Policy being developed.	4	2	8	Service Manager - Strategic Asset & Capital Plan Mgmt	March 2017		Risk reviewed February 2017 by Service Manager-current score increased from 8 to 12.
D 13	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 budget 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 Risks to be updated when assessments received but concerns over likely significant budget requirement to deal with remedial works identified.	Performance will be monitored through risk assessment and regular Inspection and testing. Funding required from the Property Renewals budget to address identified remedial works in public buildings. Existing contractors risk assessments and reporting being reviewed on ongoing basis. Programme of risk assessment, maintenance and testing tendered and accepted 2017. Contract extended to cover all buildings. Transition of Housing Management areas to new Housing Asset team.	2	5	10	Work commencing February 2017 for Risk assessment with ongoing measures.	2	4	8	Service Manager –ESBS	February 2018	7	Risk refreshed February 2017 with no change to assessment of risk scores. 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
												1-4	Low
Version	Date	Author(s)	Notes on Revisions										

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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