REPORT TO:	**CABINET 18th January 2021**
SUBJECT:	**General Fund Capital Programme 2020-2024**
LEAD OFFICER:	**Katherine Kerswell, Head of Paid Service and Interim Chief Executive** **Lisa Taylor, Director of Finance, Investment and Risk (Section 151 Officer)** **Jacqueline Harris – Baker, Executive Director of Resources and Monitoring Officer**
CABINET MEMBER:	**Cllr Stuart King, Cabinet Member for Croydon Renewal** **Cllr Callton Young, Cabinet Member for Resources and Governance**
WARDS:	**All**

CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON

The Council's capital programme underpins the capital resource allocation for all corporate priorities and policies for the residents of the Borough of Croydon. This report sets out the draft capital programme for the three year period 2021-2024 and amendments to the 2020/21 capital budget.

FINANCIAL IMPACT

The draft capital programme would result in borrowing over the Medium Term Financial Strategy (MTFS) of £90.546m. It is in additional to the borrowing required for the capitalisation direction if approved by central government.

This report sets out a request for additional capital budget in this financial year of £2.228mn relating to budget amendments and additional capital works.
Where budgets are approved, this is to ensure that any spending approved under the S114 Spending Control panel have followed the financial regulations.

FORWARD PLAN KEY DECISION REFERENCE NO.: This is not a key decision

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is recommended to:

1.1 Note the draft capital programme, which excludes the Housing Revenue Account capital programme. Note the final capital programme will be presented for Full Council approval as part of the budget setting process.

1.2 Recommend that Full Council approve amendments to the in year capital programme.

1.3 Note the changes to the Public Works Loan Board (PWLB) borrowing requirements, include the need to provide an outline capital strategy to central government before any further borrowing is permitted.

1.4 Note the proposal to review the Highways budgets alongside the Highways Strategy in the new financial year.

1.5 Cease the Asset Investment Board, as the Asset Acquisition Programme has stopped.

2. EXECUTIVE SUMMARY

2.1. The London Borough of Council is required, by law, to be a financially balanced and sustainable council. It faces significant challenges to achieve this, caused primarily by financial and other governance failures as highlighted in the Report in The Public Interest and other previous reports to Cabinet and Council.

2.2. In order to move the Council to a financial sustainable footing, work continues on reviewing operational and service delivery costs to bring them to a more appropriate level. This includes a review of the capital programme, to ensure that it better reflects the Council's priorities in light of its ongoing financial challenges.

2.3. The Council needs to balance its budget in the short and long term. While it works to reshape its service offer and bring costs down, the Council is seeking a direction to capitalise £70m of revenue expenditure in the current year and up to £80m over the subsequent three years, so that it can contain spending within available resources and build sufficient resilience to support its improvement journey. Clearly, there are revenue implications associated with this borrowing and this has an impact on the Council's ability to afford borrowing for its capital programme. The cost of this borrowing is built in to the council's MTFS and detailed in section 12 of this report.

2.4. This paper outlines an indicative capital programme for the General Fund, which will be completed as part of the budget setting cycle in February 2021. In order to finalise the programme, there is a need to review and challenge key projects and programmes in greater detail to ensure that they provide value for money for the Council and the residents of Croydon.

2.5. The capital programme for the Housing Revenue Account will be updated and reported to Cabinet in February 2021 as part of budget setting process. Work is underway to update the 30 year business plan which underpins the cycle of works to maintain council housing stock.

3. BACKGROUND

3.1. The financial regulations require a three year Capital Programme to be approved by Full Council, as part of the budget setting cycle. The Capital Programme is primarily funded by borrowing, with additional funding from developer contributions such as s106 agreements and the Community Infrastructure Levy and grants from external bodies. The Capital Programme is typically made up of:

3.1.1. Recurring key projects and programmes linked to the Council's statutory duties. These include the Highways Maintenance programme and the Education Estates Programme;

3.1.2. Recurring elements to ensure that the Council's infrastructure is repaired and maintained. This includes digital infrastructure, the corporate property programme;

3.1.3. One – off elements linked to the Council's corporate priorities.

3.2. In recent years, the Capital Programme has also included borrowing for commercial investment for financial return or investment in commercial entities. These investments have a long term impact on the Council's financial position and performance, as has been reported to Cabinet as part of the strategic review of companies.

4. INDICATIVE DRAFT THREE YEAR CAPITAL PROGRAMME

4.1. The Council is working to re-align the capital programme to ensure that it is in proportion to its corporate priorities in light of the current financial challenges. There is a priority to ensure that programmes meet the Council's statutory objectives. Other projects which are already in progress will be scaled back accordingly.

4.2. **Appendix 1** sets out the indicative capital programme and the draft funding for the programme

CAPITAL PROGRAMME UDPATES

4.3. In the July 2021 review, the 2021/2024 capital programme will be updated for projects and programmes from the current financial year which are expected to slip. These amounts will be confirmed as part of the year end accounts close process.

4.4. The indicative programme will also be updated for:

4.4.1. A review of any revised borrowing requirement of Brick by Brick. Further borrowing is likely to be required and this will be in line with value for money criteria and will be detailed and approved in future Cabinet reports;

4.4.2. A review of the assumptions underpinning the Growth Zone, which may impact on the profile and shape of the scheme; and

4.4.3. A review of other projects and programmes in light of the Croydon's financial position, revised priorities and Croydon Renewal Plan.

4.5. Programmes which were previously approved by Council will no longer be pursued and, therefore, removed from the programme. These are the Asset Acquisition Strategy and Sustainability measures.

4.6. In order to strengthen the governance around the capital programme, an officer Capital Board has been set up. This will ensure that adequate challenge is in place before any recommendations to Council are made on the shape and nature of the capital programme.

HIGHWAYS CAPITAL PROGRAMME

4.7. The Highways network is the highest value asset in the Council's portfolio, with a gross replacement value of £1.6 billion. The Highways' Strategy, published in September 2020, set out how the highways service will deliver against the Council's priorities.

4.8. Recent stock condition surveys indicate that the capital programme does not reflect the investment levels required to maintain a steady state. There is therefore a need for Council to consider different investment options and adopt the most appropriate one, taking into account the revised priorities in light of the Council's current financial position and Croydon Renewal Plan.

4.9. In order to achieve this, the Highways Service will bring a report to Cabinet in the new financial year, which sets out the Highways Strategy and associated budget proposals. The indicative capital programme currently reflects the previously approved Highways capital budgets and will need to be updated accordingly.

5. FUNDING THE PROGRAMME

5.1. The Capital Programme is funded by a mix of borrowing, developer contributions and external grants. As part of finalising the draft capital programme, the borrowing implications will be confirmed and the revenue implications factored into the MTFS. However, based on the indicative programme, the potential borrowing of £48.7m for 2021/22, for the programme of an estimate £77.4m but this is likely to change when the programme is updated for slippage. In line with the financial regulations, slippage is approved after the financial year end when outturn is finalised.

5.2. The Council holds balances of developer contributions known as the Community Infrastructure Levy and S106 contributions, which can be used to fund elements of the capital programme. In previous years, the Council expects to use CIL funding towards the Education Estates Programme. The Council also aims to use CIL towards key infrastructure in line with the underlying regulations governing CIL with the Council's internal Infrastructure Group. S106 contributions will be used in line with the associated agreements.

5.3. At the start of 2020/21, the borough CIL balance was £11.78m, with over £2m collected so far in the financial year. At least £6.8m will be allocated to the Council's capital programme in accordance with annual Council budget setting, but this will be amended each year based on funding available. The final amount to be allocated is decided in quarter 4 each year once there is certainty over the amount of CIL collected and the level of actual capital spend on programmes.

6. TRANSPORT FOR LONDON FUNDING

6.1. A number of capital schemes receive funding from Transport for London, including amounts under the Local Implementation Plan. Transport for London's financial position has been severely impacted by a decline in public transport use, due to the Coronavirus pandemic and the need to discourage public transport use for public health reasons. The financial situation has meant that TfL has also had to put most of the design, development and funding projects on pause, in addition to the safe stop on construction, with limited exceptions for safety and operationally critical expenditure. This pause has included pre-planned Local Implementation Plan funded and other borough programmes.

6.2. This therefore creates uncertainty within the capital programme as we are not able to confirm TfL LIP allocations for 2021/22. The programme will be updated once allocations are confirmed. This, in particular, has an impact on the Walking and Cycling Programme, which was funded through a combination of Growth Zone funding, TfL LIP and a small amount of capital borrowing.

7. CHANGES TO PWLB BORROWING CONDITIONS

7.1. As noted, the Capital Programme is mainly funded by borrowing. The Council obtains most of its borrowing from the Public Works Loans Board (PWLB). The PWLB's lending facility is operated by the UK Debt Management Office (DMO) on behalf of HM Treasury and provides loans to local authorities, and other specified bodies, from the National Loans Fund, operating within a policy framework set by HM Treasury.

7.2. The terms and arrangements for borrowing are determined by HM Treasury. Since 2004, under the prudential regime, local authorities are responsible for their own financial decision making. They were free to finance capital projects by borrowing, provided they can afford to service their debts out of their revenues. In deciding how much debt is affordable, local authorities are required by law to "have regard" to the Prudential Code, published by the Chartered Institute of Public Finance and Accountancy (CIPFA), but have discretion to decide how to fulfil this statutory requirement.

7.3. Decisions over which capital projects to pursue and whether to borrow for these investments are the responsibility of the elected Council of each local authority.

7.4. In response to local authorities using borrowing to fund investments in return for a yield, HM Treasury has announced targeted interventions which make some changes to the PWLB lending arrangements. Taking effect on 26 November 2020, these are:

7.4.1. As a condition of accessing the PWLB, local authorities will be asked to submit a high-level description of their capital spending and financing plans for the following three years, including their expected use of the PWLB;

7.4.2. As part of this, the PWLB will ask the S151 Officer to confirm that there is no intention to buy investment assets primarily for yield at any point in the next three years. This assessment is based on the finance director’s professional interpretation of guidance issued alongside these lending terms.

7.4.3. PWLB will not lend to a local authority that plans to buy investment assets primarily for yield anywhere in their capital plans, regardless of whether the transaction would notionally be financed from a source other than the PWLB.

7.4.4. When applying for a new loan, the local authority will be required to confirm that the plans they have submitted remain current and that the assurance that they do not intend to buy investment assets primarily for yield remains valid.

7.4.5. If HM Treasury has concerns that a loan may be used in a way that is incompatible with HM Treasury’s own duties to ensure that public spending represents good value for money to the taxpayer, the department will contact the local authority to gain a fuller understanding of the situation. Should it transpire that an LA has deliberately misused the PWLB, HM Treasury has the option to suspend that LA’s access to the PWLB, and in the most extreme cases, to require that loans be repaid. In practice such an eventuality is highly unlikely and would only occur after extensive discussion with the local authority in question.

8. IN-YEAR CAPITAL PROGRAMME

8.1. One of the work streams implemented by the Finance Review Panel was to look at the in-year capital programme to identify if projects could be paused, delayed or stopped in order to achieve immediate savings. As a result, the 2020/21 capital programme was reduced to £187.7m compared to £301.5m approved by Council in March 2020. The most significant reduction related to the cessation of the Asset Acquisition programme, which had assumed £100m of borrowing in the current year.

8.2. During the year, as part of the quarterly monitoring cycle, budget adjustments to the Capital Programme will need to be approved by Full Council.

8.3. **Table 3** in Appendix 1 outlines the changes to the current year programme that are recommended for Council approval. **Table 4** sets out the changes made to the Capital Programme which were reported to Cabinet in September 2020 in the Quarter 1 Financial Performance Report. This includes the £155m of budget adjustments made as part of the immediate measures actions under the Finance Review. Cabinet are asked to note that all spend against capital budgets are under the remit of the S114 notice and will continue to be subject to challenge by the S151 Officer as part of the Spending Control Panel mechanism. A budget increase does not, therefore, provide authority to spend but ensures the financial regulations must be adhered to, which stipulates that capital programme spend is within approved budgets.

9. RISKS ASSOCIATED WITH THE CAPITAL PROGRAMME

9.1. The Council will need to ensure that it is aware of the following risks when considering the final capital programme:

9.1.1. The capitalisation direction has an impact on affordability of the capital programme as it will significantly increase the Council's borrowing;

9.1.2. The cost of borrowing may change in future, which could have a revenue implication;

9.1.3. PWLB will require the Council to provide a summary capital programme before any borrowing is agreed.

9.1.4. As experienced by many other organisations, individual projects and programmes may be subject to the risk of overspend and delays. Regular monitoring and challenge is needed to help offset this. Any budget increases require Full Council approval.

9.2. There will also be key risks associated with individual programmes. These will be reported to Cabinet as part of the standard governance procedures and monitored in line with the Council's risk management framework.

10. CONSULTATION

10.1 The capital programme will require further review and due diligence along with specific processes for implementation including consultation with all relevant stakeholders.

11. PRE-DECISION SCRUTINY

11.1. This item has not been to a Scrutiny meeting for pre-decision debate. When a more up to date and complete programme is ready, it will be invited for scrutiny and challenge by the Scrutiny and Overview Committee as part of the overall budget setting process.

12. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

12.1. The annual revenue borrowing costs associated with the capital programme will depend on the life of the underlying assets and policy for minimum revenue provision. Based on an average life of 33 years, £50m of borrowing will result in revenue costs of £1.97m in the first year, made up of £815k of interest and £1.156m for the minimum revenue provision. This assume a borrowing rate of 1.63%. Once the capital programme is finalised, the revenue costs associated with the borrowing will be updated. The Medium Term Financial Strategy currently includes an annual revenue budget of £9.847m, which covers the costs of the minimum revenue provision associated with existing borrowing. An additional £2.989m has been included to cover the minimum revenue provision associated with the MHCLG capitalisation direction.

12.2 Risks

The report sets out the risks in section 9.

12.3 Options

There are no options presented in this report.

12.4 Future savings/efficiencies

The work to finalise the capital programme will seek to ensure that it is in accordance with value for money requirements and the revised service offer.

Approved by: Interim Deputy S151 Officer Matt Davis on behalf of Lisa Taylor, Director of Finance, Investment and Risk and S151 Officer

13. LEGAL CONSIDERATIONS

13.1. The Interim Director of Law & Governance comments that, as mentioned earlier in this report, the Council is under a duty to ensure that it maintains a balanced budget and to take any remedial action as required in year.

13.2. The Local Government Act 1972 Section 151 states that each local authority has a statutory duty to make arrangements for the proper administration of their financial affairs. In addition, the Accounts and Audit Regulations 2015 impose an explicit duty on the Council to ensure that financial management is adequate and effective and that they have a sound system of internal control, including arrangements for the management of risk.

13.3. “Proper administration” is not statutorily defined; however, there is guidance, issued by CIPFA on the responsibilities of the Chief Finance Officer (CFO). This states that local authorities have a corporate responsibility to operate within available resources and the CFO should support the effective governance of the authority through development of corporate governance arrangements, risk management and reporting framework. Regular monitoring of the Council’s actual expenditure to budget and forecasting of the expenditure for the full year is part of the proper administration and governance of the Council.

Approved by Sean Murphy, Interim Director of Law and Governance and Deputy Monitoring Officer

14. HUMAN RESOURCES IMPACT

14.1. There are no immediate implications for the workforce in respect to the recommendations.

Approved by: Sue Moorman, Director of Human Resources

15. EQUALITIES IMPACT

15.1. An equality analysis will be undertaken to ascertain the potential impact the programme will have on groups that share protected characteristics as part of the budget setting cycle. In order to finalise the programme, there is a need to review and challenge key projects and programmes in greater detail to ensure that they provide value for money for the Council and do not have any adverse impact on vulnerable residents and groups that share protected characteristics

Approved by: Yvonne Okiyo, Equalities Manager

16. ENVIRONMENTAL IMPACT

16.1. For each proposal within the Capital Programme, an environmental impact assessment will be carried out.

17. CRIME AND DISORDER REDUCTION IMPACT

17.1. For each proposal within the Capital Programme, an environmental impact assessment will be carried out.

18. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

18.1. To set out a draft capital programme for 2021-2024 and update the in year capital budget to ensure that any spending decisions have associated budget cover.

19. OPTIONS CONSIDERED AND REJECTED

19.1. No other existing options were considered.

20. DATA PROTECTION IMPLICATIONS

20.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

This reports presents high-level financial data only.

20.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

No

CONTACT OFFICER:	Lisa Taylor, Director of Finance Investment and Risk and S151 Officer
APPENDICES TO THIS REPORT:	Appendix 1 – indicative capital programme and the draft funding
BACKGROUND PAPERS:	None