



**Notice of meeting of  
Scrutiny Management Committee (Calling In)**

**To:** Councillors Galvin (Chair), Blanchard (Vice-Chair), Kirk,  
R Watson, Moore, Simpson-Laing, Scott and Taylor

**Date:** Monday, 12 May 2008

**Time:** 5.00 pm

**Venue:** Guildhall, York

**AGENDA**

**1. Declarations of Interest**

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

**2. Public Participation**

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by 5pm the working day before the meeting. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

To register please contact the Democracy Officer for the meeting, on the details at the foot of this agenda.

**3. Minutes**

(Pages 3 - 4)

To approve and sign the minutes of the meeting of the Scrutiny Management Committee (Calling In) held on 31 March 2008.

**4. Called In Item: Back Park Petition - (Pages 5 - 16)  
Executive Response**

To consider the decision of the Executive on the above item, which has been called in by Councillors Alexander, Bowgate and Crisp in accordance with the provisions of the Council's Constitution. A cover report is attached setting out the reasons for the call-in, the remit and powers of Scrutiny Management Committee (Calling In) in relation to the call-in procedure, together with the original report and decision of the Executive.

**5. Any other business which the Chair considers urgent under the Local Government Act 1972**

Democracy Officer:

Name: Fiona Young

Contact details:

- Telephone – (01904) 551027
- E-mail – [fiona.young@york.gov.uk](mailto:fiona.young@york.gov.uk)

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting. Contact details are set out above.

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

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If you would, you will need to:

- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than 5.00 pm** on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

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### Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

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If you have any further access requirements such as parking close-by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

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### **Holding the Executive to Account**

The majority of councillors are not appointed to the Executive (38 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Advisory Panel (EMAP)) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

### **Scrutiny Committees**

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

### **Who Gets Agenda and Reports for our Meetings?**

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City of York Council

Committee Minutes

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MEETING	SCRUTINY MANAGEMENT COMMITTEE (CALLING IN)
DATE	31 MARCH 2008
PRESENT	COUNCILLORS BLANCHARD (VICE-CHAIR), KIRK, R WATSON, MOORE, SIMPSON-LAING, SCOTT AND TAYLOR
IN ATTENDANCE	COUNCILLOR GALVIN (AS CALLING-IN MEMBER)

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**10. DECLARATIONS OF INTEREST**

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda.

Cllr Taylor declared a prejudicial interest in agenda item 4 (Called-in Item: Ward Committee Local Improvement Schemes Grant Applications), as a member of the Advisory Panel that had advised the Executive Member on the original decision on this item, and having expressed a view at the EMAP meeting. He remained in the room during the discussion on this item and participated in the debate, but did not take part in the vote.

**11. PUBLIC PARTICIPATION**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

**12. MINUTES**

RESOLVED: That the minutes of the Scrutiny Management Committee (Calling In) meeting held on 21 December 2007 be approved and signed by the Chair as a correct record.

**13. CALLED IN ITEM: WARD COMMITTEE LOCAL IMPROVEMENT SCHEMES GRANT APPLICATIONS**

Members received a report which asked them to consider the decision taken by the Executive Member for Neighbourhood Services, at a meeting of the Executive Member and Advisory Panel (EMAP) on 19 March 2008, on proposed changes to the grant application policy for Ward Committee Local Improvement Schemes.

The Executive Member's decision had been included on the decision list published on the Council's website after the EMAP meeting, a copy of which was attached as Annex A to the report. The original report, on which the decision had been based, was attached as Annex B. In summary, the Executive Member had decided to approve the proposed changes to the grant application policy, subject to some minor amendments and the preparation of an abbreviated form for schemes under £500. That decision

had been called in by Cllrs Gillies, Galvin and Watt, for the following reason:

*“We feel that the new rules etc. will inhibit smaller community groups from applying and in more general terms we think it to be very bureaucratic and [that] it almost takes away some discretion of Ward Members.”*

Members were invited to consider the following options in respect of the called-in decision:

**Option A** – to confirm the decision of the Executive Member

**Option B** – to refer the decision back to the Executive Member for them to re-consider or amend it in part.

Cllr Galvin addressed the meeting on behalf of the Members who had called in the decision. He commented that the application form and guidance for Ward Committee grants appeared designed to inhibit smaller groups from applying for small amounts and was too prescriptive and bureaucratic. Providing the necessary advice on the forms would unduly increase the workload of staff. The system also sent the message that ward councillors could not be trusted.

After the matter had been debated Cllr Kirk moved, and Cllr Watson seconded, that Option A be approved and the decision of the Executive Member confirmed. On being put to the vote, the motion was declared lost.

Cllr Scott then moved, and Cllr Simpson-Laing seconded, that Option B be approved and the decision referred back to the Executive Member, with a recommendation that a final decision on the proposed changes to the Ward Committee local improvement schemes grant application process be deferred until such time as the forms and guidance notes had been sufficiently revised to enable Members to give them proper consideration. On being put to the vote, the motion was declared carried and it was

**RESOLVED:** That Option B be approved and the decision referred back to the Executive Member, with a recommendation that a final decision on the proposed changes to the Ward Committee local improvement schemes grant application process be deferred until such time as the forms and guidance notes had been sufficiently revised to enable Members to give them proper consideration.

**REASON:** In accordance with the requirements of the Council's Constitution in respect of called in decisions.

P Blanchard, Chair

[The meeting started at 5.05 pm and finished at 5.55 pm].



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## Scrutiny Management Committee (Calling – In)

12 May 2008

### Report of the Head of Civic, Democratic and Legal Services

### Called-in Item: Back Park Petition – Executive Response

#### Summary

1. This report sets out the reasons for the call-in of a decision made by the Executive in relation to a petition, originally submitted to full Council on 29 November 2007, seeking the removal of Back Park from the list of leisure land for potential sale.

#### Background

2. The relevant extract from the decision list of the meeting of the Executive held on 6 May is attached as Annex A to this report. The original report to the Executive is attached as Annex B.
3. Following publication of the Executive's decision, Councillors Alexander, Bowgate and Crisp called in the decision for review by the Scrutiny Management Committee (SMC) (Calling-In) in accordance with the constitutional requirements for post-decision call-in. The reasons given for the call-in are as follows:-

*“That the Executive did not follow the full recommendations of the Shadow Executive namely:*

- *Back Park, aka Balfour Street Play Area, should not be sold off*
- *Investigations to legal title and ability to sell land should be halted.”*

#### Consultation

4. In accordance with the requirements of the Constitution, the calling-in Members have been invited to attend and/or speak at the Call-In meeting, as appropriate.

### **Options**

5. The following options are available to SMC (Calling-In) in relation to dealing with this call-in in relation to the constitutional and legal requirements under the Local Government Act 2000:
  - (a) to confirm the decision of the Executive, on the grounds that the SMC (Calling-In) does not believe there is any basis for reconsideration. If this option is chosen, the decision takes effect from the date of the SMC (Calling-In) meeting;
  - (b) to refer the decision back to the Executive, for them to reconsider or amend in part their decision. If this option is chosen, the decision will be re-considered at the meeting of the Executive (Calling-in) scheduled for Tuesday, 13 May 2008.

### **Analysis**

6. Members need to consider the reasons for call-in and the basis of the decision made by the Executive and form a view on whether there is a basis for reconsideration of that decision.

### **Corporate Priorities**

7. An indication of the Corporate Priorities to which the Executive's decision is expected to contribute is provided in paragraphs 17 and 18 of Annex B to this report.

### **Implications**

8. There are no known financial, HR, Legal, Property, Equalities, or Crime and Disorder implications in relation to the following in terms of dealing with the specific matter before Members; namely, to determine and handle the call-in:

### **Risk Management**

9. There are no risk management implications associated with the call in of this matter.

### **Recommendations**

10. Members are asked to consider the call-in and reasons for it and decide whether they wish to confirm the decision made by the Executive or refer the matter back to the Executive for re-consideration.

### **Reason:**



To enable the called-in matter to be dealt with efficiently and in accordance with the requirements of the Council's Constitution.

**Contact details:**

**Author:**

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**Chief Officer Responsible for the report:**

Quentin Baker  
Head of Civic, Democratic and Legal Services

**Report Approved**



**Date**

*8 May 2008*

**Specialist Implications Officer(s)** None

None

**Wards Affected:**

**All**



**For further information please contact the author of the report**

**Annexes**

Annex A – decision of the Executive (extract from decision list) - 6 May 2008

Annex B – report to Executive – 6 May 2008

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**EXECUTIVE**

**TUESDAY, 6 MAY 2008**

**DECISIONS**

Set out below is a summary of the decisions taken at the meeting of the Executive held on Tuesday, 6 May 2008. The wording used does not necessarily reflect the actual wording that will appear in the minutes.

Members are reminded that, should they wish to call in a decision, notice must be given to Democracy Support Group no later than 4pm on the second working day after this meeting – that is, Thursday, 8 May 2008.

If you have any queries about any matters referred to in this decision sheet please contact Fiona Young (tel. extn. 1027).

**6. BACK PARK PETITION - EXECUTIVE RESPONSE**

RESOLVED: (i) That the receipt of the petition, and the status of the land at issue, be noted.

(ii) That Officers be asked to undertake an area asset management review in the Leeman Road area.

REASON: To ensure that the communities assets in this area are optimised and the highest quality of public provision achieved.

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## Executive

6<sup>th</sup> May 2008

Report of the Corporate Landlord

## Back Park Petition – Executive Response

### Summary

1. The purpose of this report is to:
  - a. Ask Members to respond to a petition submitted to the council relating to any potential development of the Back Park , Balfour Street, York.
  - b. To clarify the status of this property holding.

### Background

2. The petition states:

*"We the undersigned call upon the Council to permanently remove Back Park (aka Victoria Park) from the list of leisure land under threat of sale, in order to ensure that the land which was given to the residents of the Leeman Road area by the Rowntree Family to enjoy as an amenity leisure site, will remain as such."*
3. The land the petition refers to is held for the purpose of leisure provision. The land has never been formally declared surplus to those requirements. The land had, therefore, at the time of the petition never been approved for sale by the Executive and as a consequence not included on a list of sites for potential sale.
4. The whole of the site (A, B and C) was gifted to the Corporation by Arnold Stephenson Rowntree on 9 June 1911. The site to be 'held as public ground for the purposes of the Recreation Ground Act 1859' and to be (1) 'used as recreation ground especially for children' and (2) 'a bowling green for adults at no charge for entrance, but can charge for playing bowls'.
5. Use or disposal of any part of this land for purposes other than those stipulated in the Deed of Gift may require consent from the

successor organization to Arnold Stephenson Rowntree. The Corporate Landlord is seeking to identify the successor organization and is taking further legal advice to determine the appropriate action to be taken by the council for any change of use.

6. The attached plan shows the area currently held for leisure purposes (Area A and B) and the area (back of Lincoln Street) appropriated from Recreation & Amenities Committee to Part II of the 1969 Housing Act for use as car parking – S121 of Town and Country Planning Act 1971 – in May 1979 (Area C).
7. The Recreation Grounds Act 1859 dealt with essentially charitable bequests of land was repealed by the Charities Act 1960 which was in turn repealed by the Charities Act 2006. Section 2 of the 2006 Act clearly defines what are charitable purposes and these are purposes which are for the public benefit. Section 2(2) expressly provides that public benefit includes the provision of facilities for recreation and leisure.
8. The Charity Commission has been approached to give an opinion as to whether a charitable trust has been created.
9. Assuming that a trust does exist then further legal advice will be sought to determine whether:
  - a. The trust has been abandoned?
  - b. If not is there any way of securing a release from the trust ?
  - c. If not what is the impact of the legislation on any proposed sale?
10. Council considered and approved the capital budget for 2008/9 at the Council meeting on 21<sup>st</sup> February 2008. As part of that capital budget report an annexed list of sites earmarked for disposal and the generation of capital receipts was also approved.
11. Included and approved in the list of disposals is Area A.

### **Consultation/Analysis**

12. The petition.
13. The Corporate Asset Management Group (CAMG) has looked at this area of York and considered whether a more holistic picture of land in that area would provide us with a more strategic and acceptable solution to the local community.
14. All of the land used as open space in this area is in very poor condition and if any of it is going to provide a worthwhile facility or space to benefit the local community it would need a significant level of investment.

15. One way to generate that investment would be to rationalise the open space ie. dispose of some of the open land and use part of the receipt to upgrade those that remain, the residual receipt being used to support the capital programme.
16. This would enable the CAMG and Corporate Landlord to engage with ward members and the local community on the issue before bringing the options for disposal and investment back to the Executive.

### **Corporate Priorities**

17. Improve the quality and availability of decent affordable homes in the city.
18. Improve the actual and perceived condition and appearance of the city's streets, housing estates and publicly accessible spaces

### **Implications**

19. Financial– The capital programme as approved on 21st February 2008 is now dependant upon the generation of a capital receipt from the disposal of part of the land identified on the attached drawing at Back Park, Balfour Street, York.
20. Legal- Further advice awaited from specialist consultant
21. There are no other implications from this report

### **Risk Management**

22. Failure to achieve the capital receipt will impact upon the council's capital programme and will require Members to either identify an alternative site for disposal or reduce the capital programme by the level of capital receipt expected from this sale.
23. Action has been taken to determine the identity of the successor organisation to Arnold Stephenson Rowntree to enable the council to fully appreciate the requirements or consent needed for any change of use on this property holding. There is always the possibility that consent would not be given.

### **Recommendations**

24. Members are asked to:
  - a. Note the status of the land at issue
  - b. Members are asked to respond to the petition once legal advice has been received.

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**Chief Officer Responsible for the report:**  
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Specific Implications:

Financial: Tom Wilkinson

Legal: Brian Gray

**Wards Affected: All**

**Report Approved**

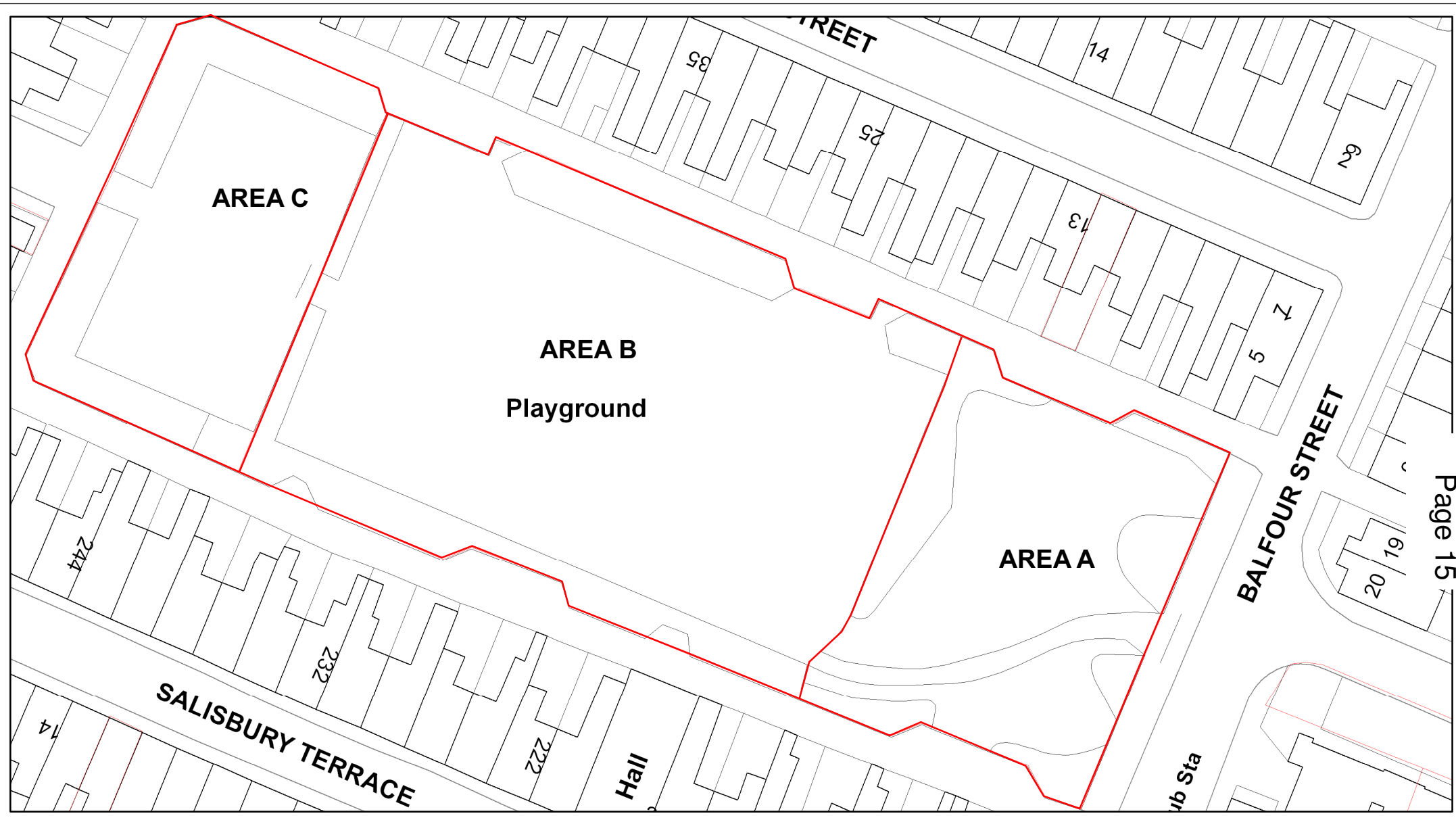


**Date** *9<sup>th</sup> November  
2007*

**For further information please contact the author of the report**

**Background Papers**





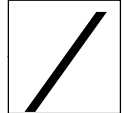
Resources  
Property Services

# Back Park

SCALE 1:500 DRAWN BY: GR

Originating Group: Property Services

DATE: 15/04/2008



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