

Kirklees Local Plan Examination.

Stage 4 - Matter 30 - Huddersfield housing allocations: Green Belt releases

Sites H1747 and H351 (Land north of Bradley Road, Huddersfield)

RESPONSE TO DOCUMENT EX70 (COUNCIL'S CLARIFICATION)

1. It is noted that in the 20 pages of section 2 of this document (covering pages 7 to 27 inclusive), the Council not only responds to the Inspector's request for clarification of the erroneous population calculations contained in its previous reports and to which attention had been drawn at the hearing session but also takes the opportunity of rehearsing and adducing evidence in regard to various aspects of NPPF paragraph 74.
2. Although paragraph 7 states that "surplus to requirements" is the main focus of the note of clarification, in fact the larger part of it deals with seeking to establish that the projected sports usage under the Council's proposed revised sports provision will exceed the present golf usage and therefore outweighs it - that is actually the main focus. However, the report's author fails to understand that the consideration of one sports provision "outweighing" another has no bearing on bullet point 1. You will find no reference to that consideration in the wording of bullet point 1. That consideration applies only as part of bullet point 3 (development for alternative sport) which, so far as we understand the position, it was conceded at the hearing does not apply.
3. We find a number of the phraseology used in this document to be at times disingenuous. For instance, in the third line of paragraph 1, the author refers to "potential inconsistencies in the technical information" - they were not potential inconsistencies, they were actual inconsistencies. On several occasions the document states "this evidence shows that the requirements of paragraph 74 can be met" without identifying which bullet-point or section of paragraph 74 is allegedly fulfilled or how the evidence in question actually fulfills it. When the document finally, after 8 pages, concedes that the figures were wrong, there is no apology or expression of regret.
4. As the Council's clarification note refers at the outset to several paragraphs of the NPPF (other than paragraph 74) which the author considers pertinent, may we advance the following points for consideration which we consider to be equally pertinent:
 - (a) bullet point 4 of NPPF paragraph 182 (Examining Local Plans) states that the plan should be "consistent with national policy - the plan should enable the delivery of sustainable development *in accordance with the policies in the Framework*" (our emphasis). In the context of Bradley Park golf course, this must mean in accordance with paragraph 74.
 - (b) the document refers to NPPF paragraph 73 and we consider that the juxtaposition of paragraphs 73 and 74 is worthy of comment. We think that these two paragraphs run side by side. Paragraph 73, we believe, is intended to cover the determination and provision of new or additional open space or sports provision (and refers to assessments to that end), and paragraph 74 then follows on to deal with existing facilities. It says that such facilities should not be built on. That is its primary sentence. It then has three

separate and narrow sets of circumstances under which, if any one of them applies, building may be allowed. It goes on in its first bullet-point to require an assessment to have been undertaken which has clearly shown the facility to be surplus to requirements (our emphasis). An assessment under the first bullet-point of NPPF74 is therefore clearly an individual and separate assessment to those mentioned elsewhere in the Framework.

5. We find the meaning of paragraph 15 of the Council's clarification document to be extremely ambiguous. For example, in assessing a "surplus to requirements" situation, what exactly does "the relevant strategies must be integrated" mean? What strategies and what are they being integrated with? By the same token, what, in a surplus to requirements assessment, does a "correlation between the needs assessments undertaken in respect of different land uses" actually mean? It all sounds impressive, but it is incomprehensible. We would suggest a more meaningful and realistic touchstone for whether or not a facility is surplus to requirements - are people using it in numbers and is it making money?
6. We have similar issues with paragraph 16 of document EX70. We have to take particular issue with the last two bullet-points of that paragraph.

(a) Firstly, as to consultation with relevant bodies and organisations, we can assure the Inspector that there was no consultation whatsoever with Bradley Park Golf Club, nor for that matter we understand with Kirklees Active Leisure (KAL), the course managers. For confirmation of the latter, we refer to the consultation posting by Councillor Jim Dodds opposing this allocation who was at the time the Lord Mayor of Huddersfield and was throughout (and currently remains) a trustee of KAL. He stated, inter alia: "I would like this removed for the following reasons: The Course is a valued addition to the Kirklees Active Leisure portfolio. Kirklees Active Leisure was not party to any discussions prior to the club being included in the Local Plan.

(b) As to "ensuring that the assessment considered both quantitative and qualitative assessments of golf provision", not only did it make little or no reference to the contents and conclusions on these very points contained in the more independent report by Smith Leisure but, as has now been shown, the figures applied in the assessment were wrong and on that account badly misleading. Furthermore, the issues surrounding the nomadic golfer were inadequately considered and reflected in the reports.

Paragraphs 17 to 29 inclusive.

7. We turn now to paragraphs 17 to 29 of document EX70 (headed Local Plan Evidence Base). These paragraphs basically give an overview of the first two KKP reports. It is both notable and disappointing, that no reference is made throughout this document to the contents of the Smith Leisure Report. Insofar as Bradley Park is concerned the summaries of these reports confirm that it is the only traditional 'pay and play' golf provision in Kirklees (it could have said in Kirklees, Calderdale and Bradford) and that within the existing supply in Kirklees it has a unique role as a municipal 'pay and play' facility, providing both playing and learning facilities. In two places in these summaries, it is stated that one or more clubs "may be forced to close" (paragraphs 19 and 20). This choice of words is quite telling. It obviously implies that a local course may be obliged to close through economic forces (e.g. either through becoming unprofitable or being squeezed out if supply exceeds demand). And indeed this might occur. We wish to comment, however, that neither of these considerations can be said to apply to Bradley Park. Bradley Park golf course is NOT being forced to close for any such reason; closure is being forced upon Bradley Park to allow for housing. This is not a case of surplus to requirements; this is a case of enforced closure of a perfectly viable and valued sports facility. This is contrary to both the letter and the spirit of NPPF paragraph 74. It is not an honourable position to observe that a certain

type of facility may be forced to close through economic strictures and then to proceed to close such a facility using that as justification. Nor is it really relevant in this context to object that the present golf course is not now being completely closed, but only partly closed with a smaller course retained because we are here discussing the meaning and application of the term “surplus to requirements” and the validity of the supply/demand argument as advanced by the Council.

8. The opening statement in the panel headed Golf Needs Assessment Oct 2015 bald referring to “oversupply in Kirklees” should not be taken at face value, nor as a correct statement of fact because subsequent reports (Smith Leisure) and now the 2017 reports once the figures are corrected clearly and convincingly refutes the oversupply suggestion..

9. The references in this section of EX70 (e.g. paragraphs 24 to 28) are to spare membership capacity at other clubs and to “displaced members”. However, as was established at the hearings, part of Bradley Park’s “uniqueness” is its accommodation of the needs of the numerous nomadic golfers in Kirklees and beyond.

Looking firstly at the members at Bradley Park, the membership / green fee structure is such that a Club member can obtain membership for £140 per annum, obtain a playing handicap, and then, if suitable to their needs, play as little as they wish by paying a nominal green fee on each occasion. If the same Bradley member wished to play golf all year round, then on top of the £140 membership fee a KAL season ticket will cost £520, giving an annual membership cost of £660 per annum. For such a member to play all year round at Willow Valley, for example, the annual membership is currently £930, plus weekly competition fees of £200 (based on a fee of £5.00 per week), an total annual cost of £1,130 per annum – a sum not comparable to the Bradley Park fee of £660 as is alleged in the various KKP reports. Nomads now exceed golf club members numerically. The considerations under review in the KKP reports do not deal with the needs of the nomadic golfer. It is not just the club members who would be displaced, it would also be the much larger number of nomads. In the reports produced by KPP there have been a number of assertions implying how easily any displaced nomad golfer would find alternative access to other “local courses” at a comparable cost to those at Bradley Park. However, this assertion fails to reflect certain factors. Firstly, for a nomad to play at, for example, Willow Valley, the costs at any comparable time of the week are approximately twice the cost at Bradley Park. Examples are; Monday BP £10 (WV = £20), Tuesday – Friday BP = £18 (WV = £30), and weekend BP = £19.50 (WV = £40) (source: analysis of the two courses respective web-sites). Secondly, a nomad golfer will not have access to play at an alternative local course to Bradley Park, including Willow Valley, on a Saturday and Sunday morning – a popular and requisite time for a nomadic golfer who is in regular employment. This is because ALL proprietary clubs reserve those times for member competitions. Many proprietary clubs also have a number of other time restrictions reserved for members-only during mid-week. This position will further not be helped should Bradley Park be reduced to a 9-hole course, as this would reduce the available playing opportunities at Bradley Park at all times by more than 50%.

10. Paragraph 28 contains a misleading summary of the 2015 report’s conclusions. It says the final paragraph on page 6 states that “up to 2037 there is capacity within existing supply to potentially accommodate displaced members should a facility be forced to close”. This is not what that paragraph says at all. We will quote what the relevant part of the final paragraph on page 6 of that report actually says:

“KKP does not anticipate any new golf courses will need to be provided in Kirklees up to 2037, if at all. There is capacity within the existing supply to potentially accommodate displaced members should a facility be forced to close”.

It will be seen that the remark about the year 2037 was in relation to the need to build new golf courses, and not at all about current capacity for displaced golf club members extending until then. This is clear from the next sentence which starts: “There is capacity within the existing supply...” The first is an opinion expressed about the future; the second is an opinion expressed about the present. But

paragraph 28 conflates them in a misleading and unreliable way. Obviously, no-one can say with any degree of accuracy how long the present supply/demand situation (even if it is as KKP claim, which is debatable) will pertain, and certainly nobody could give any reliable figures or comments about such a situation for a time 20 years hence. Paragraph 28 is accordingly an unreliable and misleading misquotation.

11. At the end of this section, paragraph 29 states: "This evidence shows that the requirements of paragraph 74 can be met". This is presented as a statement of fact, but it is merely a statement of opinion and, quite frankly, it is quite wrong. Firstly, it does not state which bullet-point of NPPF para. 74 this "evidence" even relates to, let alone meets. Paragraph 74 cannot "be met" in some vague general sort of way as the author appears to wish; all the elements of one (or more) particular bullet-points must be met. Presumably, bullet-point 1 is the one in view. Secondly, the "evidence" contained in these paragraphs, such as it is, is that golf club membership may currently be in decline and that there may be spare membership capacity at some other courses. Oversupply, even if relevant, is certainly not established. In our view, this is a great distance away from showing Bradley Park golf course to be surplus to requirements under bullet-point 1. It merely shows a few generalisations which by their very nature are applicable to every golf course in Kirklees and district.

Paragraphs 30 – 42 inclusive.

12. Paragraph 30 and again paragraph 34 both state that the 2017 reports (SS2 and M30.1) do not supersede the 2015 Golf Needs Assessment (LE123). This must mean, inter alia,... "that the conclusion contained in the 2015 Assessment that "Bradley Park GC...has a unique role as a municipal 'pay and play' facility, providing both playing and learning facilities" still stands. There were several other favourable findings relative to Bradley Park contained in the 2015 Assessment as set out in paragraph 5.3 of Nicholas Howe's Hearing Statement. We cannot see how it can be possible to acknowledge that in the pantheon of local golf courses Bradley Park "has a unique role", etc. and in the same breath claim that it is nonetheless surplus to requirements. The Inspector was alert to the apparent conflict between the observation made by Sport England in its Statement of Common Ground and the verbal evidence given by its representative Mr. Dave McGuire at the hearing and took steps to resolve that. Here is another contradiction but this one remains unresolved: in our view, this golf course cannot both be endowed with the positive qualities referred to and be surplus to requirements.

13. In referring to the March and December 2017 reports, paragraph 32 of Ex70 states that their broad conclusion was that participation rates in sport would be significantly increased should the emerging Masterplan be implemented compared to retaining the current golf course provision. Let us say at the outset that this conclusion is debatable. But even if the conclusion were correct, it would not be relevant in regard to any argument based on bullet-point 1 of NPPF para. 74. The only time any such consideration would have any relevance would be under bullet-point 3. This is the only bullet-point where the need for any sport outweighing another is mentioned. Unfortunately, as we attempted to point out at the hearings, the Council's experts have consistently sought to introduce considerations about sporting needs and participation rates into bullet-points other than bullet 3. No evidence was given at the hearings in respect of bullet point 3. It does not apply because the development is clearly predominantly for housing, not alternative sport. The consideration of sporting needs/participation rates, although seemingly of relevance, should not be allowed to intrude into either bullet-point 1 or bullet-point 2, the wording of which makes no reference to such matters. It is clear, however, that this is unfortunately what is going on here because paragraph 7 of Ex70 clearly states that "surplus to requirements is the main focus of this note of clarification".

14. This problematic looseness of thought is again exemplified in paragraph 36 of Ex70 where a bullet-point 3 expression ("alternative sports and recreational provision as set out in the emerging Bradley Park Masterplan at that time would clearly outweigh the loss of existing golf facilities...") is

introduced into an argument based on bullet-point 1. This weaving in and out of the various bullet-points of NPPF paragraph 74 and importing selected parts from one section to another is incorrect.

15. As the argument is based on bullet-point 1, we will not make much in the way of comments on the statistics in paragraphs 38 to 41 and paragraphs 50 to 54 inclusive except for the following very brief remarks:

(a) The 50,000 user visit figure for the present golf course (paragraph 41) will be an underestimate and should be treated as a minimum only. This figure, if accurate, will represent the number of users recorded by KAL as having paid or recorded their round in the professional's shop; we regret to say that the professional's shop will be able to confirm that quite often club members will play on the course without recording that fact in the pro's shop and occasionally members of the public may even sneak on without paying;

(b) known and actual figures are to be preferred to unknown and projected (and probably inflated) ones;

(c) an equally valid measure of sports participation is not how many user visits are recorded but how much time is spent actually engaged in the sport in question (i.e. hours spent rather than a simple body count).

We will confine ourselves to these few remarks, but would add that if the Inspector is minded to allow this allocation on the basis of bullet-point 3, we request a full hearing to air all the many issues arising under it and which were not rehearsed at the hearings, not least of which would be the point that, being the **same** sport, the new proposed golf provision under the latest Masterplan cannot in our view amount to "*alternative* sports and recreational provision" under bullet-point 3. Golf cannot be an alternative sport to golf.

16. The sentence "This evidence shows that the requirements of paragraph 74 can be met" reappears in paragraph 42, in summarising the contents of paragraphs 32 to 41. However, as before, this is wrong. Those paragraphs, in our view, partially address only one of the elements of bullet-point 3, namely whether one sport "outweighs" another - they do not at all show that paragraph 74's requirements under bullet-point 1 are met.

Paragraphs 43 to 59.

17. Paragraph 43 commences: "To allow comparison of the golfing provision in Kirklees the report considered the location of facilities and the resident population within a 20-minute drive-time of Bradley Park". This is the preamble to acknowledging that a critical population figure previously given was wrong, as pointed out at the hearings. We consider this opening comment to be disingenuous. The phrase "for comparison purposes only" or similar is repeated in paragraphs 44, 45, 57, 59 and 60. However, looking at the actual report in which these figures and tables first appeared (KKP March 2017 Report – SS2) on page 6, paragraph 2.1.4 headed "Supply of golf holes set against population" this clearly commences:

"In order to *ascertain the level of supply* of golf facilities within 20 minutes' drive time of Bradley Park, the supply of holes was analysed, etc....." (our emphasis).

It seems clear to us from this that the figures and tables were not in fact included purely for comparison purposes, but so as to provide evidence of oversupply of standard/par 3 golf holes and driving range bays within 20 minutes' drive time.

18. Insertion of the correct figures (for population and driving range bays) actually produces the reverse outcome to that given in the KKP reports - see Replacement Tables 2.4, 2.5 and 2.6 (pages 23-25 of EX70). The replacement tables show that, with correct figures, within 20 minute drive-time of Bradley Park, there are **less** standard golf holes than the national and regional average, **less** par 3 holes than the national and regional average, and **less** driving range bays than the national and regional average. Far from being in an oversupply situation as KKP's figures were originally intended to show,

Bradley Park is, if anything, in undersupply. This is also the view expressed in the much overlooked Smith Leisure Report (SS16) - see paragraphs 6.5-6.9 and 6.16 of Smith.

19. Whilst providing replacement tables in Ex70, no apology is made for the original error nor is any correction made to the conclusions drawn from the original tables in the March 2017 report. These conclusions were contained in paragraph 2.1.5 on page 8 of the March 2017 report under the heading 'summary of supply', and included express statements about there being more golf holes and driving range bays than national and regional and national averages. These conclusions were clearly drawn at the time to bolster a case designed to show that there was an oversupply of golf provision near to Bradley Park. All the conclusions contained in the final bullet point of paragraph 2.1.5 of the 2017 report were wrong and Ex70 should, in our view, make this clear not only by saying so, but also by recording corrected conclusions. Corrected conclusions would show an undersupply near Bradley Park compared to regional and national averages. What Ex70 does is to refer to lower than average figures for Kirklees only (see paras, 2.4 and 3.5 of the Appendix) and then show that the low figures increase for 20 minute drive-time to Bradley Park. The Kirklees averages of course have remained unchanged from the original tables. The clear fact is that for both Kirklees and for a 20 minute drive-time of Bradley Park there are fewer golf holes and driving range bays than regional and national averages.

20. We are of the opinion, that had they applied the correct figures in the first place, both the tables and the conclusions to be drawn from them would most likely not have appeared in this report at all. To this extent, we consider the assertion contained in paragraph 60 of Ex70 that these figures "were not part of the NPPF paragraph 74 assessments" to be disingenuous. These tables and conclusions were clearly a major plank in the Council's case in attempting to establish "surplus to requirements" They now seek to play down the seriousness of this incorrect information, even to the extent of concluding in paragraph 60 that Ex70 simply "corrects some numerical errors".

21. We have primarily concentrated in this response only on the first bullet-point of NPPF paragraph 74, which, as we understand it, is the only one of the three bullet-points upon which the decision turns. Very little evidence was presented at the hearings on either of the other two bullets, apart from clear statements from Mr. Dave McGuire of Sport England that he does not consider the proposed 9-hole course to amount to equivalent or better provision under bullet 2. No evidence was given relative to bullet point 3, nor were the provisions of that bullet-point debated. Paragraph 55 of Ex70 repeats the mantra that "this evidence shows that the requirements of paragraph 74 can be met", whereas, again, the preceding evidence to which it refers shows no such thing. The "evidence" presented in paragraphs 43 to 53 has little or no bearing on any of the bullet-points of paragraph 74, apart from a tenuous connection based on debatable statistics, with bullet-point 3.

22. Bearing this in mind, the Council's case on surplus to requirements and the whole content of their voluminous reports can basically be boiled down to the following propositions:

(a) that golf has been and may still be in decline;

(b) that within 20 minutes' drive-time of BP there is over-supply evidenced by greater than average numbers of golf holes and driving range bays;

(c) Other golf courses nearby have spare capacity and can therefore accommodate displaced numbers.

The second of these propositions has been shown to be incorrect. This leaves (a) and (c), which are essentially uncontestable statements. But they are mere generalisations applying to every golf course in the Kirklees' area. It cannot possibly be right that Bradley Park, a unique, viable, profitable, popular and well-used facility, can be found 'surplus to requirements' on this basis. A proper reading of bullet-point 1 shows that the assessment must clearly show that the open space, building or land is surplus to requirements – in other words, **the facility itself** must be shown to be surplus to requirements – not that the sport it represents is currently in decline. The Council's evidence does not show Bradley Park itself, as a golfing facility, to be surplus to requirements. How can that possibly be the case when they now propose to retain a reconfigured golf course there?

23. Further, bullet-point 1 requires the assessment to clearly show the surplus to requirement situation. This is a high burden of proof. A number of assessments which are claimed to cumulatively show such a case (as here) militates against any such clear and unequivocal conclusion; and any conflict between those assessments (as here) or any serious flaws in them (as here) makes the matter worse. We contend that there is no assessment clearly showing the Bradley Park golf facility, as it currently is, to be surplus to requirements. It remains unique in the locality for servicing the needs of learning, nomadic and club member golfers alike.

24. There is much reliance on the proximity of Willow Valley Golf Course. The location of another golf course within two miles or so is not unusual. That fact in itself renders neither course surplus to requirements. Proximity of other facilities nearby, as any seaside guest-house will confirm, is neither here nor there, What is important are the numbers using the facility (Bradley Park's are high) and the profitability (again Bradley Park's is good).

25. The Council introduces the claim that the proposed new sporting provision will "significantly increase" (their phrase) participation rates. This claim, if proven, would be a relevant consideration under bullet-point 3, but is not relevant to bullet-point 1. The possibility of increased usage by dint of a revised sports provision does not feature as a consideration under the wording of bullet-point 1. Bullet-point 1 is aimed at clearly establishing whether or not the facility in its present state is actually and currently surplus to requirements. Even under bullet-point 3, a reconfigured golf course could not in our view qualify as "alternative sports and recreational provision" as the sport played remains the same.

26. There is a great risk that because the proposal put forward by the Council includes some elements from each of the bullet-points of NPPF paragraph 74 that therefore somehow paragraph 74 must be fulfilled. There is also some seductiveness and appeal to the argument that 'we get housing and we still retain some golfing provision'. But it is not compliant with NPPF paragraph 74. As sustainable development is a key overarching concept in the general scheme of things under the NPPF, so in a similar way paragraph 74's overriding consideration is that "existing open space, sports and recreational buildings and land, including playing fields, should not be built on". To that overarching requirement there are added three distinct set of circumstances where building may be allowed. They each stand alone and have their own requirements. Together they provide a strong defence in favour of existing open space and sports facilities, and their requirements cannot be intermingled.

27. The wording of NPPF paragraph 74 contains no technical terms and is written in plain English. Reading it, we think the overall intentions and rationale of the draftsman can be ascertained with a little imagination. He starts out with the premise that sports facilities should not be built on. He then considers three exceptions to the rule:

- (a) If the facility has fallen into a state of disuse or is seldom used so as to have become surplus to requirements, it may be built over (rationale: facility is no longer serving its intended purpose)..
- (b) If the facility is replaced by an equivalent or better provision offering the same sport suitably located, it may be built over (rationale: sports facility preserved by moving to new location).
- (c) If the area is developed for a different sport and/or recreational use which is clearly more needful than the present sports use (rationale: overall sporting use retained by introduction of new sport).

The draftsman then places these exceptions to his general rule, as you do, in the order which he considers most likely to apply, working from top to bottom. We think it is as simple as that.

As we said at the hearings, we believe the draftsman had no intention that this paragraph would be extended so as to allow the closure and building over of an entirely viable and well-used sports facility and he would be opposed to that.

28. We know of no case, and none has been put forward, of a viable and flourishing golf course having been closed down for housing development on the basis of being surplus to requirements. There is no body, other than the Council's advisors, promoting Bradley Park as surplus to requirements. Mr. Dave McGuire of Sport England said more than once at the hearing that it was not surplus to

requirements. It remains the only true pay and play, play at any time, golf course in Kirklees, Calderdale and Bradford.

We remain of the view that this proposed allocation is not compliant with NPPF paragraph 74 and that consequently the Local Plan in this particular regard must be considered unsound.

29. Ultimately, if the Inspector finds bullet point 1 of Paragraph 74 to have been fulfilled and thereby allows this allocation, we consider it incumbent upon the Inspector to state the reasoning for that finding in the Final Report. If the Inspector is minded to allow the allocation and pass the Local Plan as sound on the basis of bullet-points 2 and or 3, then we request a further hearing so that the provisions of those bullet-points can be fully aired and debated.

Robert Balcam
Secretary
On behalf of the Committee of Bradley Park Golf Club

18 July 2018