

SUNNICA ENERGY FARM

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8.65 Applicant's response to comments on 8.10 Horse Racing
Industry Impact Assessment

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and
Procedure) Regulations 2009



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Subject Review of Reports on Horse Racing Industry (HRI) Impacts

Executive Summary

- This note has been prepared by Lichfields on behalf of Sunnica Ltd (the applicant) in relation to the Sunnica Energy Farm (“the scheme”) DCO Examination, specifically to respond to representations made by Say No to Sunnica (SNTS) and others in the Horse Racing Industry (HRI) which relate to the scheme’s purported impact on the HRI. The key report relied upon by SNTS is the ‘Assessment of impact on the horseracing industry in Newmarket & connected planning policy assessment’ prepared by ‘Rapleys’ (“the Rapleys Report”). This was supplemented by a separate report by Popham Planning Consultants. We have also reviewed supplementary submission made by Godolphin.
- The Rapleys Report shows little grasp of planning policy and it does not address any of the SofS findings on the HRI made at Hatchfield Farm. In the applicant’s view, that Inspector’s report and SofS decision forms a logical starting point for framing an assessment of impact given it grappled with fundamental issues about the operation and resilience of the HRI and how participants within it would respond to alleged impacts (real and perceived).
- The report’s HRI context for Newmarket is contradictory in a number of places, advancing that Newmarket is unrivalled in terms of its HRI cluster and its reputation, facilities, services, history, culture and prestige, with a history in racing stretching back hundreds of years and which currently stands at the top of the racing world, yet is somehow also vulnerable, fragile and delicate to any impacts real or perceived that might arise.
- The purported effects of the scheme on HRI facilities lack any evidential basis – Rapleys do not refer to existing technical evidence supporting the application or any alternative technical evidence prepared by SNTS. The purported effects on the HRI as a whole also lack any evidential or methodological basis, and are almost entirely based on interviews conducted with industry members who offer general speculation. The report itself accepts that it is not possible to conclude on the extent of any identified harm.
- The report repeats claims that the simple act of granting permission in the face of HRI opposition and the very perception of impacts (even if there were ‘no actual harm’) would give an unacceptable message to the global HRI that the industry was not being protected or taken seriously by the authorities, and that a ‘herd mentality’ would cause wealthy horse owners to depart – an almost identical claim made, and explicitly rejected, at the Hatchfield Farm inquiry (indeed, no evidence has been submitted by SNTS to show that the grant of permission for that development has had the effect that was alleged).

1.0 Introduction

1.1 This note reviews a number of written representations prepared by the ‘Say No to Sunnica Action Group’ [SNTS] (which represents the views of a number of groups, including the Newmarket Horsemen’s Group [NHG]), and other members of the Horse Racing Industry (HRI) submitted through November and December to the Sunnica Energy Farm DCO Examination. These set out the views of the industry of the alleged impacts of the Sunnica Energy Farm scheme on the HRI and also respond to the report prepared by Lichfields ‘Horse Racing Industry Impact Assessment’ (November 2022) (herein “the Lichfields report”) submitted on behalf of the applicant (REP2-039). The representations reviewed are:

- The SNTS Written Representation (Rep2-240F), Annex E ‘*Assessment of impact on the horseracing industry in Newmarket & connected planning policy assessment*’ report prepared by ‘Rapleys’ (hereafter the ‘Rapleys report’). The report is appended to a summary assessment report – also prepared by Rapleys – which provides a summary of the main reports conclusions and some policy detail;
- The SNTS Written Representation (Rep2-240F), Annex J Contribution of Horse Breeding to UK Economy ‘The contribution of thoroughbred breeding to the UK economy and factors impacting the industry’s supply chain, PWC, September 2018’ (herein “the PWC report”);
- The SNTS Written Representation (Rep2-240F), Annex K Economic Contribution of Horseracing ‘Newmarket’s Equine Cluster: The Economic Impact of the Horseracing Industry centred upon Newmarket, SQW, January 2014’ (herein “the SQW report”);
- ‘Response to Sunnica Energy Farm DCO application document 8.10 Horse Racing Industry Impact Assessment’ produced in November 2022 by Popham Planning Consultants (hereafter the ‘Popham report’) which responds to the report prepared by Lichfields. It was confirmed by SNTS during the examination session ISH3 (agenda item 3(b)(i) on the HRI) that the author of the Rapleys Report and Popham Report are the same; and
- The representation made by Godolphin (dated 24th November 2022).

1.2 This note is structured as follows:

Part 1 – Review of Rapleys Report

- **Section 2:** Planning Policy and HRI Context (principally reviewing sections 3 to 6 of the Rapleys report and the planning policy sections of the summary report);
- **Section 3:** Impact on specific facilities (principally reviewing sections 7 to 9 of the Rapleys report);
- **Section 4:** Summary and Conclusions in relation to the Rapleys Report.

Part 2 – Review of other representations

- **Section 5:** Review of the SQW and PWC reports; and
- **Section 6:** Review of Popham report; and
- **Section 7:** Review of Godolphin representations.

Part 1 – Review of Rapleys report

2.0 Planning Policy and HRI Context

Policy context

HRI policies

- 2.1 As a starting point, the Rapleys report does not grapple with policy matrix for the determination of this NSIP. An application for development consent is determined pursuant to the provisions of the Planning Act 2008 (PA 2008). Section 104 applies where National Policy Statement have effect and section 105 applies where no National Policy Statement have effect. It is important to note that in either case the local development plan does not have the same import as would be the case with a normal planning application as per Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 2.2 Section 105 (2) of the PA 2008, requires that the SofS must have regard to, inter alia, any other matters which the SofS “*thinks are both important and relevant*” to the decision. In this case the Applicant considers that the current suite of National Policy Statements together with the draft replacement documents are important and relevant in the decision-making process. Local plan policies are also capable of being important and relevant but would have less weight in the planning balance than the National Policy Statements. The effect of the above this is that local planning policies contained in an adopted development plan are not the automatic policy basis for the determination of a NSIP.
- 2.3 In this context, as explained in the Lichfields report (2.20) we consider that there are two specific local planning policies relating to the HRI at Newmarket which are capable of being “*important and relevant*”.
- 2.4 The plans of East Cambridgeshire and West Suffolk both have policies pertaining to the HRI (these are set out in full in the Lichfields report). The written representations of SNTS refer to the East Cambridge Local Plan policy on the HRI – EMP6 - (para 7.1.12) and goes on to refer to this as ‘the key policy’ (para 7.1.42) although it is not clear what the representations mean by this. Only a passing reference is made to the West Suffolk local plan policy (DM48) which is similar, but allows for such development if the benefits significantly outweigh the harms to the industry.
- 2.5 The Rapleys report (para 60) states
“West Suffolk development plan is therefore a material consideration in this case but it cannot and does not carry the same weight as the East Cambridgeshire Local Plan in relation to Sunnica West Site A”.
- 2.6 Referring back to the PA 2008, the above might be interpreted – noting again the Rapley’s report does not grapple with the relevant policy matrix – as suggesting one LPAs policies pertaining to the HRI are relevant and important, but the other’s policy is less so. The Applicant’s position is that given the application site falls within both LPAs areas, and is to be

considered in a NSIP context (i.e. not as the starting point for determination), both policies are of equal relevance.

Interpretation of Policy EMP6

- 2.7 The Rapleys report suggests that the East Cambridgeshire policy EMP6 (para 35) can be interpreted as requiring that development only needs to ‘threaten’ the long-term viability of the industry and that ‘no actual harm need occur’. This appears to be based on a loose interpretation of the meaning of ‘threat’.
- 2.8 The Rapley’s position was similar to that advanced by the Newmarket Horseman’s Group at the Hatchfield Farm inquiry (2020)¹, with the Inspector’s Report stating that:
- “It was suggested that the mere fact of granting planning permission against the wishes of NHG could lead to a perception that the HRI is somehow sidelined, or not taken seriously, thus increasing any perception of harm that the industry feels... (IR480)*
- As anywhere, development proposals are assessed against a framework of planning policies, which are designed to ensure that development, if permitted, meets defined criteria and/or provides mitigation where necessary and appropriate. (IR483)*
- Consequently, the HRI should be assured that if planning permission for the application scheme was granted, it would stem from a reasoned judgement about the degree to which the proposal complied with relevant planning policies. Where it was found to have done so, and/or there had been a careful consideration of any benefits against any harm (perceived or actual), there cannot, in my judgement, be any grounds for the HRI to perceive that its concerns are not taken seriously. They most certainly are. The planning system does not, however, countenance the refusal of planning permission solely on the basis of the unexamined objections of a particular interest.” (IR484) (emphasis added)*
- 2.9 The Hatchfield Farm decision confirms that in both a wider planning context but also the specific context of policies which seek relate to the Newmarket HRI, any ‘threat’ must be subject to interrogation. There must be evidence that a development would cause actual harm otherwise the planning system would be required to give weight to un-evidenced assertion of threat or harm simply because an objector claims a threat to exist.
- 2.10 Notwithstanding, at the ISH3 session, Leading Counsel speaking on behalf of SNTS confirmed verbally that SNTS considered the Hatchfield Farm decision to be “*totally irrelevant*” because “*the primary issue [at Hatchfield Farm] related to traffic*”². The applicant strongly disagrees that Hatchfield Farm is irrelevant to the Sunnica scheme for a number of reasons.
- 2.11 First of all, the HRI case at Hatchfield Farm was not limited to alleged harm from traffic:

¹ The 2020 decision relates to an inquiry that took place in 2019 (and hence references to the 2019 or 2020 Hatchfield Farm decision are the same decision). An earlier inquiry took place in 2015; the decision by the Secretary of State (also published in 2015) – which went against the Inspector’s recommendation to allow the appeal – was quashed by the High Court, however the 2015 Inspector’s findings are referred to at length within the 2020 decision. The 2020 decision has been provided separately to the examination.

² An issue principally considered at IR396 to 437 of the decision but also in the specific context of the HRI between IR438 to 487.

- 1 Both with Hatchfield Farm and Sunnica, representatives of the HRI were/are seeking to advance a position that the mere perception of a harm to the HRI was/is sufficient to fail the policy tests; a position explicitly rejected by the Inspector as outlined above.
- 2 The Hatchfield Farm decision also dealt explicitly with the alleged threat of ‘urbanisation’ (IR472 – 474), an allegation similarly rejected.

2.12 Further, in considering the above issues as well as traffic on the HRI, an Inspector and then the SofS have:

- 1 Reviewed the HRI industry;
- 2 Looked at the relevant policy for its protection;
- 3 Listened to HRI witnesses and their allegations of harm from a development;
- 4 Made an assessment of the health of the HRI and its resilience to alleged threats;
- 5 Determined how alleged threats to the industry should be considered;
- 6 Drawn conclusions on how the actors in the HRI itself (including wealthy owners) would behave in response to harm, either actual or perceived; and
- 7 Made an assessment of how potential changes in and around Newmarket and to the HRI might relate to the long term viability of the industry;

2.13 The above serves as a clear framework, endorsed by the SofS for assessing a given development’s impact on the Newmarket HRI, whatever those impacts might be.

2.14 In using the above framework, the Hatchfield Farm decision establishes the following directly relevant findings for consideration of this DCO application, inter alia:

- 1 The current strength of the industry is relevant to considering threat and impact (IR438 – 444);
- 2 Newmarket is one of the best, if not the best, place in the world to train race horses. (IR439)
- 3 It has a unique set up that is not and probably could not, be replicated elsewhere. This is consistent with findings from inquiries in 2011 and 2015 (IR 440)
- 4 The industry will have ups and downs as part of any economic cycle and it can operate within certain tolerances (IR442 and 477)
- 5 Allegations that alternative locations (domestic or international) would draw from the industry in Newmarket should be set against the reality that there do not appear to be any locations that do, or could, realistically rival the agglomeration of equine services and facilities found in Newmarket (IR463).
- 6 It is relevant whether or not there is any evidence that owners or trainers say they would relocate in the event of development being approved (IR464 – 465).
- 7 In terms of the dynamic by which wealthy foreign horse owners might make investment decisions:
 - a They are business like, shrewd and rational (IR466-7);

- b They will make a decision based on whether Newmarket will continue to offer the advantages that attracted their investment in the first place (IR466);
 - c Trainers will be important conduits of advice to horse owners and it is inconceivable that a pessimistic picture would be painted if – on consideration of evidence – permission for a development was granted based on a considered conclusion that it would not be harmful to horse racing interests (IR466);
 - d There is little if any evidence these owners act on whims (IR466-7)
 - e Trainers and owners will take a very considered view of impacts, if any, measured against the clear benefits of Newmarket (IR479)
- 8 The HRI can co-exist with changes in the level of other activities in the town (IR468)
 - 9 The tipping point whereby an impact of development outweighs the merits of Newmarket is one that cannot be anticipated, but it is a matter of judgement based on the evidence (IR469)
 - 10 Even if, following a grant of PP, a significant investor did relocate their horses, the economic witness for the HRI was that he could not see the cluster imploding as it is exceptionally robust (IR475) and loss of international investment is likely in the future in any event and this will open up opportunities for others (IR476).
 - 11 The mere act of granting approval sending a signal the HRI is not valued, which would threaten its viability was not an argument that was accepted by the Inspector or Secretary of State. The planning system does not make judgements about impact and threat simply because an objector says there is one (IR484).

2.15 Even though the scheme and the type of alleged impacts (Hatchfield Farm being a residential scheme where traffic impacts were a key consideration) are different to Sunnica, the Hatchfield Farm decision is self-evidently a logical starting point in terms how one considers threats to the industry in a planning context, setting out relevant context, the key principles and a methodological framework for assessing potential impacts against the relevant policy (the same local policy which is relevant for Sunnica), as set out in Section 2.0 of the Lichfields report.

2.16 The Rapleys report, on the other hand, does not refer to the Hatchfield Farm decision at all. There is no explanation or justification as to why a different framework should be used to that in the Hatchfield Farm decision. Nor is there any explanation on why different conclusions, in respect of, say, *“the perception of harm”* (i.e. as per IR484), should be reached for the purposes of the Sunnica scheme than was reached for Hatchfield Farm proposal.

2.17 Moreover, in contradiction of its own position the Rapleys report refers to two major infrastructure schemes (A14 dual carriageway and railway line – decisions made some decades ago) as purported examples of where the views of the HRI have been taking into account in decision-making, despite providing no background whatsoever to those decisions and how they are comparable to a solar farm.

The wider planning balance

2.18 The Rapleys report is clear (para 2.3) that its scope is to review various sources to establish the significance in HRI terms, review relevant representations, interview industry figures, conduct a high-level desk-based assessment of the likely effect of the development on horse-racing industry assets and report the findings. However, the report goes clearly beyond this scope, providing a view on whether the scheme's benefits outweigh the harms (the exercise set out in the West Suffolk HRI policy, DM48). Para 73 of the Rapleys report states:

"Having reviewed the claimed benefits of the proposed development I [the author] am of the view that on the basis of the information included in the application it is not possible to determine the value and weight that should be attached to them."

2.19 This is despite the benefits not even being set out in the report, or sourced. It is therefore difficult to understand the basis by which the report makes the following statement:

"As a result they can only be afforded limited weight. I have therefore concluded that the significant harm that the proposed development would cause to the horseracing industry would not be outweighed its benefits."

2.20 It is also difficult to understand how the benefits of the scheme are afforded 'limited weight' in the report's balancing exercise when:

- 1 Draft NPS EN-1 for Energy states *"In this Part, the Secretary of State identifies the level of need for new energy infrastructure. In relation to the weight to be given to that identified need, the Secretary of State has determined that substantial weight should be given to this need when considering applications for development consent under the Planning Act 2008."* (para 3.2.6); and
- 2 In the SofS's decision letter for the 'Little Crow Solar Park' DCO it is concluded that: *"the Secretary of State ... considers that it is appropriate to accord substantial positive weight to the project due to the contribution it will make towards the decarbonisation of the UK's energy production"* (para 4.32)³.

2.21 Finally, the report reaches the conclusion – one well beyond its scope – that:

"As a result of all of the above I can only conclude that the long term viability of the horseracing industry would be threatened by the proposed development and therefore that, in accordance with very clear direction of the relevant local planning policy, development consent should not be granted for it." (Rapleys report para 75)

HRI context

2.22 Section 3 of the Rapleys report sets out the significant and importance of horse racing and British horse racing in particular (historically, culturally, politically, economically, etc); it primarily refers to secondary data sources, which are not disputed, although its statistical analysis (e.g. analysis of number of horses in training over time, sales at Tattersalls, number of

³ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010101/EN010101-000888-Decision%20Letter%20-%20Little%20Crow%20Solar%20Park.pdf>

trainers, world rankings over time, within Newmarket, the UK and other locations, over time, etc) is surprisingly limited. A more detailed contextual analysis is found at Section 3.0 of the Lichfields report.

- 2.23 Section 4 focuses on the significance and importance of Newmarket in particular – indeed the whole of Section 4 is dedicated to demonstrating Newmarket’s international, political, economic, historical and cultural significance. Some of these are sourced to secondary data sources, however many statements are taken from the interviews conducted by the report’s author with industry members.
- 2.24 Based on the analysis in Sections 3 and 4, the Rapleys summary report (para 20) summarises that *“no location in the world is comparable to Newmarket in terms of scale, diversity and concentration of its horseracing operations’ and these ‘operations and facilities are amongst the best, if not the best”*.
- 2.25 These conclusions mirror the Hatchfield Farm Inspector’s Report (IR 440) which states that *“much was made, by various witnesses, of Newmarket’s cluster of HRI facilities being second to none, with a unique set up that was not, and probably could not be, replicated elsewhere.”* They also correspond with the findings of the Lichfields report (set out therein at the end of Section 3.0). **It therefore appears to be common ground between the parties (the applicant and SNTS) that Newmarket is unrivalled as a centre for horse racing which currently stands at the top of the industry.**

Alleged vulnerability of Newmarket

Threats from other competitor locations

- 2.26 Section 5 of the Rapleys report then goes on to discuss Newmarket’s alleged vulnerability. This includes reference to other locations which pose potential threats to Newmarket including (para 5.3) Ireland (e.g. Co Kildare, Tipperary), France (e.g. Chantilly, Pau, Deauville), the USA (e.g. Kentucky, California), Australia (e.g. Victoria/Melbourne), the Middle East (Gulf States e.g. Dubai, Qatar) and the Far East (e.g. Hong Kong, Japan, China). However, we note that:
 - 1 No detailed analysis is given of the types of facilities and investments seen in these clusters, or whether they are genuine threats – based solely on the analysis in Section 4 which clearly elevates Newmarket above any location found anywhere else in the world, this would seem unlikely. Lichfields report (para 3.28-3.33 onwards) explores whether Newmarket faces a genuine threat from other locations domestically and internationally based on empirical evidence and shows this is unlikely to be the case.
 - 2 Comparisons of these areas in the Rapleys report is drawn solely from notes with a small number of industry members, who make statements such as ‘Ireland has a strong breeding industry’, ‘Chantilly is close and has higher prize money’, ‘Middle East because horses can and are being trained there’, ‘Hong Kong is doing well at the moment’, ‘Australia is becoming increasingly lucrative, there is plenty of space/countryside for training horses and is doing well’ (para 5.17). These statements appear to be the sole basis for Rapleys’ conclusion that other centres threaten Newmarket, however they are not supported by any

evidence and do not demonstrate that any location represents a genuine threat to Newmarket.

- 3 Furthermore, the Inspector's Report into Hatchfield Farm (para 463-7) concluded – in respect of the potential threat of overseas locations - that *“Concerns were still voiced about the potential for overseas locations to become more preferable than Newmarket. Again, however, there do not appear to be any locations that do, or could, realistically rival the agglomeration of equine services and facilities found in Newmarket. Mr Anderson (for NHG) was clear that Newmarket's offer was “not replicated elsewhere”. Although Chantilly in France is similar, he noted, it does not have horse sales or the same level of veterinary support. Sites in Australia, such as Warwick Farm, Sydney, are much smaller, and in North America one has to travel considerable distances to access facilities beyond the race courses at which horses are typically based.”*

2.27 The Rapleys report also sets out that within the UK, challengers include Lambourn, Malton and Middleham because *“these are Britain's other racing and breeding centres with which Newmarket naturally competes”* (statements from interview notes only, para 5.17), however:

- 1 Again, no empirical evidence of the success of these areas is presented, how they have compared to Newmarket in terms of performance, whether their facilities are comparable, examples of investment taking place, etc.
- 2 To the contrary, Lichfields report (para 3.22-3.27) analyses the number of trainers across various locations, stud farms and other HRI facilities across the UK, including these locations and shows that Newmarket is unique within the UK, and that these locations are unlikely to represent genuine threats to Newmarket.
- 3 Again, the Inspector's Report into Hatchfield Farm (para 459) found, in respect specifically of the threat of Lambourn, that *“It was suggested by NHG that Lambourn now posed a threat to Newmarket, which it did not in 2015, as a location that may draw trainers away from Newmarket in response to adverse impacts arising from increased congestion or, indeed, in its own right. There is not, however, any substantive evidence that this is the case.”* The Inspector's Report went on to note that Lambourn's recent growth appeared to be largely the result of Jockey Club investment, which would appear inconsistent with the position that Lambourn posed a threat to Newmarket. Lambourn also does not have anywhere near the scale of supporting facilities seen in Newmarket, nor does it have its own racecourse.

2.28 The purported threat from these locations was also confirmed verbally during ISH3 in which the author noted Newmarket's vulnerability was, in part, due to the 'readily available feasible alternatives' – contrary to the Rapleys report own finding that there is 'nowhere in the world' like Newmarket and contrary to the finding of the Hatchfield Farm Inspector in relation to alternatives or competitors to Newmarket.

2.29 Examples of apparent threats/declines in similar equine clusters are given in the Rapleys report which include (para 5.12, all referring to a report published by Deloitte in 2015 which is not included in full within or appended to the SNTS representations):

- 1 Epsom, which saw training centre usage down 18% between 2010 and 2014, with decline 'likely' due to at least in part to urbanisation. However, we note that:
 - a No statistics are presented for what was occurring in Epsom prior to 2010 or since 2014; 2014 is now 8 years ago;
 - b No analysis is presented of the types of services and facilities supporting the HRI that exist in Epsom;
 - c No evidence is given to demonstrate that urbanisation in Epsom led to its decline (only speculation that this was 'likely'); and
 - d This issue was similarly considered in the Inspector's Report on Hatchfield Farm, which stated that (IR474) *"Mr Gittus made reference to urbanisation as a contributor to the decline of Epsom. Notwithstanding that there was no suggestion that Epsom was ever comparable to Newmarket, it was the evidence of Mr Gosden that it has been the loss of HRI land and facilities in other horse racing/breeding centres in England, which has contributed to their decline..."*
- 2 The Hunter Valley region of Australia, where it is purported that proposals for open cast mining in region led to campaign by Darley and Coolmore, with perceived risk deterring Qatar racing from investing and application eventually refused due to concerns it would negatively impact the racing industry. However, we note that:
 - a Once again, no evidence is given to show whether the HRI cluster in the Hunter Valley is comparable to Newmarket. The Deloitte report⁴ which is sourced however does note these differences, including that the Hunter Valley has 'no major training centres', covers 'a much larger area, 75-193 miles north of Sydney' and the 'sales house is located a considerable distance away'.
 - b No context is given, for example no information is given on the planning policy context of Australia generally or the locality of Hunter Valley, no information is given on the proposals, such as the proximity of the proposed mining sites to relevant HRI sites and no reference is made to any evidence base documents on the assessment impacts of the scheme (such as noise, air quality, landscape, ecology, transport, socio-economics), etc. Also, no information is given as to the evidence that was submitted which assessed the impacts of mining on the HRI in the region, what its methodological framework was and what its conclusions were. Without this information it is simply not possible to conclude whether the circumstances in Hunter Valley are remotely similar to those in Newmarket as a result of Sunnica Energy Farm; and
 - c Similarly, the Rapleys report does not directly reference the relevant planning decision. It is therefore unclear whether the decision was refused *entirely* due to its impact on the HRI (as implied in the Rapleys report), or whether other factors were at play.

⁴ Available at this web address: <https://www.westsuffolk.gov.uk/community/newmarket-vision/upload/NewmarketHorseracingIndustryReportSep2015.pdf>

- 2.30 Overall, there is nothing in the Rapleys report to suggest that Newmarket's incomparable position as the best place in the world to train horses is no longer representative of the current position, or that recent years have seen its place usurped by other locations. This undermines the points subsequently and opportunistically made by the HRI in response to the Lichfields report analysing recent global trends in terms of world-ranked thoroughbreds.

Threats from a loss of investment

- 2.31 It is important to preface any analysis of the threats to the HRI from a loss of investment with the observations made at Hatchfield Farm, that even were it to be concluded that a wealthy owner would move investment away from Newmarket, this would not in of itself be said to threaten the long term viability of the HRI. The Inspector at Hatchfield Farm quoted witnesses from the HRI in drawing the following findings (IR 476-479):

"Taking a worst-case scenario, even if, following the grant of planning permission [for Hatchfield Farm], a significant investor relocated their horses away from Newmarket, the view of Mr Wicksteed [the economic witness on behalf of the HRI] was very clearly that he could not see the town's HRI cluster "imploding", as it is "exceptionally robust".

Even Mr Gittus [the witness representing the Jockey Club] was clear that, irrespective of whether the application scheme was granted permission, "at some point it [overseas investment] will be less than it is now". This, he noted, "opens up opportunities for others". Arguably, given Newmarket HRI's weighted reliance on a small number of very wealthy investors, which is a remarkably fragile state for any industry to be in, this could be no bad thing....

Both Mr Wicksteed and Mr Gittus noted that the HRI has had ups and downs even with overseas investment. These do not appear to have affected it adversely, which suggests that the HRI can operate, and grow, successfully within certain tolerances anyway.... The evidence would, in my view, point towards owners and trainers taking a considered view of the impacts, if any, of some additional traffic [resulting from the Hatchfield Farm proposals] versus the very clear benefits offered by the unique HRI cluster at Newmarket."

- 2.32 Despite this, the Rapleys report asserts that 'even a relative limited decline would threaten the industry's world leading position' (para 69). No evidence is given to support this assertion and it clearly contradicts the findings at Hatchfield Farm (from the HRI's own witnesses) set out above that the HRI has its 'ups and downs' which have not adversely affected it.

- 2.33 The Rapleys report goes on to make a number of contradictory statements in relation to investors and their options, in an attempt to demonstrate that the industry is vulnerable, for example:

- 1 The Jockey Club contends investors can 'invest practically anywhere in the world' (para 5.13) and 'investors won't invest in Newmarket just because it's Newmarket', yet it goes on to state that a recent investor (Ibrahim Araci) chose Newmarket and that it was 'always going to be Newmarket' (5.14);
- 2 The report claims that investors are footloose and can 'invest anywhere in the world' meaning Newmarket is continuously under threat from other major locations (para 5.2)

despite the fact that Section 4 that (for example) there is *‘no location in the world comparable to Newmarket in terms of scale, diversity and concentration of horseracing operations’* and there is *‘nowhere else like Newmarket in any of the other top horseracing nations’* (para 4.2), a position supported by the Hatchfield Farm decision;

- 3 Despite racing in Britain carrying an aspirational status abroad, associated with its high social standing and links to monarchy (para 3.5) and there being *‘nowhere else in the world that comes close to the level of history and culture and Newmarket enjoys’* (summary report, para 20b), in the view of the Jockey Club, *‘the choice such investors have is wide, their choice is one not only of the different places in the world where they can invest, but is also one involving the many different sports and leisure pursuits available to them’* (para 5.13). No evidence or examples are given to show that investors in Newmarket have previously or are currently at risk of moving their investments into other sports entirely; and
- 4 It is also claimed (summary report, para 20h) that *‘loyalty and inertia which may feature in other lines of investment and business are much less likely to be found in horseracing’*, although no evidence is given to support this statement. There is no engagement by Rapleys with what the Hatchfield Farm inspector concluded in terms of how overseas owners behave, including acting in a *“business-like”* fashion and weigh up all of Newmarket’s benefits (as a location to invest in horse racing) against any disbenefits (IR467 and IR479).

2.34 In considering how the impact of a development in Newmarket might impact on the investment patterns, nowhere does the Rapleys report engage with the dynamic and behavioural logic that exists between those who work in the HRI and those who invest in it. This was effectively captured by the Inspector in the 2015 call-in inquiry report (quoted in full at IR303 and in part at IR466 of the 2020 Hatchfield Farm decision) who said:

“It is not unreasonable to surmise that most [owners] will base their decisions on a shrewd and rational consideration of whether or not Newmarket will continue to offer the advantages that attracted the investment in the first place ... [Trainers] will be important conduits of advice to their owners and it is inconceivable that a pessimistic picture would be painted if, on an assessment of the evidence, the Secretary of State considers that the application proposal would not be harmful to horse racing interests and decides to grant planning permission.

2.35 Notwithstanding that the applicant does not agree that the industry is indeed vulnerable, there is no evidence given in the Rapleys report specifically as to why the Sunnica scheme threatens the long-term viability of the industry as a whole, based on this vulnerability.

Summary

2.36 The HRI context in the Rapleys report paints a picture of a world-renowned industry in Newmarket, which is unrivalled domestically and worldwide (in terms of its scale, supporting facilities, history, etc), has long-standing, prestigious roots and currently – as of 2022 – continues to dominate the racing industry. This is drawn primarily from secondary data

sources and interviews with industry members, and we do not dispute these conclusions. As they reflect our own contextual analysis and the findings of the Hatchfield Farm Inspector.

- 2.37 Yet, the Rapleys report also seeks to advance a position that Newmarket's HRI cluster is somehow under a number of significant threats (unevidenced) from other locations within the UK, other locations overseas, other sports, development, etc; these positions appear to be contradictory and the realism of the threats are assertions and not supported by evidence. As a matter of principle, this logic is flawed, however the Rapleys report relies on its subsequent sections to purportedly demonstrate the impact of the scheme on specific HRI facilities and the industry as a whole; we review these in more detail below.

3.0 Impact on Specific HRI Facilities

- 3.1 Sections 7, 8, and 9 of the Rapleys report set out the purported effects on specific HRI facilities. Table 1 in Section 7 provides a summary of the 'potential relationships' between the Sunnica scheme and the HRI, noting the possible effects, the likely magnitude of possible effects, as well as the likely magnitude of combined effects.
- 3.2 A summary of the significance for the HRI facilities as asserted within the Rapleys report is detailed in Section 8 of the Rapleys report. In planning terms, the key points to note from Section 8 are that the Limekilns should be considered both a '*non-designated heritage asset*' (noting Para 203 of the NPPF) and forming a 'valued landscape' (in accordance with Para 174 of the NPPF) with reference to other consultants' reports.
- 3.3 Further detail on the alleged impacts on specific HRI facilities and the PROWs is set out within the Popham report; these are reviewed in Section 7 of this note.

Review of alleged impacts

- 3.4 The Rapleys report reviews the alleged impacts of the scheme on 17 facilities and 1 PROW. Of these specific facilities, 10 have a concluded combined impact as 'negligible/low'. The impacts concluded for these facilities – while low at most – are primarily derived from 'landscape/visual' and 'glint and glare' impacts. For these 10 facilities, there is no evidence presented in this report nor references to other consultant reports to conclude on these impacts. They appear to be without evidential basis.
- 3.5 In Section 9 of the report, there is a summary of the different impacts for 4 HRI facilities and 1 PROW. These are set out below in order of magnitude of the concluded impact:
- 1 Chippenham Estate – Very High
 - 2 The Limekilns – High
 - 3 The Railway Field – Medium / High
 - 4 Godolphin's Chippenham/Snailwell Gallops – Medium / High
 - 5 PROW 204/5 – Medium / High

- 3.6 While ‘The Railway Field’ in Section 9 of the Rapleys report is noted as being likely to experience a ‘Medium / High’ effect, Table 1 of the report states that the effect is ‘Low / Medium’. It is not clear which is the concluded effect.
- 3.7 For the remaining three HRI facilities listed below there is no evidence presented or summary provided in Section 9 to explain, justify or conclude on the stated impacts:
- 1 Water Hall – High
 - 2 Arran House Stud – Medium / High
 - 3 St Simon Stud – Medium / High

Review

- 3.8 Reviewing the impacts for 4 HRI facilities and PROWs considered in Section 9 of the report the below sets out our responses to the purported impacts.

Chippenham Estate

- 3.9 The Rapleys report acknowledges that although the site was indicated on the Newmarket Stud Plan produced in 2015, its lease to Godolphin for breeding and training has expired and as of July 2022 the site was being used for cattle grazing (Rapleys report para 8.5). As a point of principle therefore, and the longer-term viability of the HRI as a whole:
- Given the site is not an ‘existing’ HRI facility, its development should not result in a policy conflict given that relevant planning policies only seeks to protect against adverse impacts on the operational uses of ‘existing’ sites (emphasis added); and
 - Its temporary loss for a time limited use as a solar farm similarly should not result in policy conflict because it should not result in harm to the longer-term viability of the HRI as a whole. The site has not been in use for racing-related uses for at least the last six months and no evidence has been submitted to show the loss of this site to grazing has undermined the industry as a whole (and, therefore that its loss in the future to solar farm use would similarly continue to undermine the industry).
- 3.10 For these reasons, the Chippenham Estate is not assessed as an HRI facility within the technical documentation, for example within the Glint and Glare assessment (however a number of dwellings in Chippenham are assessed for the purposes of the residential assessment). For this reason it is also not assessed within Section 5 of the Lichfields report.
- 3.11 The Chippenham Estate is concluded by the Rapleys report to experience ‘very high’ effects because of the development. Key to this assessment is that the effects are assessed from the perspective that the estate is an active HRI facility. The Sunnica development would therefore result in the loss of an HRI facility and some surrounding land in the estate (not part of the Sunnica scheme) would suffer from noise, landscape/visual, dust and busyness impacts during construction and similarly from change of use, landscape/visual, noise and glint and glare during operation.
- 3.12 Whilst the Chippenham Estate specifically is not assessed as an HRI site within the documentation (as it is currently in agricultural use) there are a number of references

throughout the submission documents to specific receptors, notably residential dwellings within Chippenham and associated with the Estate. These find that:

- 1 **Noise:** In respect of noise from construction, operation and decommissioning, there will be a negligible effect on the setting of heritage receptors at Chippenham Park and Chippenham Lodge (Environmental Statement Chapter 11 Noise and Vibration para 11.3.15). The three sensitive residential receptors located in Chippenham (R6, R9 and R10, as set out in Table 11-1 of Chapter 11 of the ES) are similarly subject to negligible effects during construction and decommissioning (Table 11-14 of Chapter 11), negligible effects from traffic during construction and decommissioning (Table 11-15) and negligible effects during operation from daytime period (Table 11-16). During operation, for night/early morning/late evening periods, effects are negligible for two of the three properties and minor adverse for one (R9), although this is not significant in environmental impact assessment terms;
- 2 **Landscape:** Chippenham Park is considered at length within Chapter 10 Landscape and Visual Amenity of the Environmental Statement. It notes (para 10.6.309) that the zone of theoretical visibility (ZTV) is substantially reduced by existing features and that the ZTV of Sunnica West sites A and B “*does not extend across Newmarket, Chippenham, Chippenham Park, nor to Burwell and north of the River Lark*” (para 10.6.309). It concludes that during construction there would be minor adverse (not significant) landscape and visual impacts on the Chippenham Park Local Landscape Character Area (Chapter 10 Table 10-18) during Year 1, reducing to negligible adverse by Year 15 (Table 10-24);
- 3 **Glint and Glare:** A number of dwellings located in/around Chippenham area considered with the Glint and Glare Assessment (Environmental Statement Appendix 16A). It concludes “*Following the implementation and establishment of the mitigation measures, no significant impacts are predicted, and no further mitigation is required. This is because existing vegetation, proposed vegetation, and/or other surrounding dwellings will reduce the duration of effects to less than 3 months per year and 60 minutes per day, or the dwellings are located over 1km from the reflecting panels and so any reflections are not considered significant in accordance with the 1km study area considered appropriate for ground-based receptors*” (Glint and Glare Assessment p.69).
- 4 **Traffic:** The transport impacts on the B1085 Chippenham Road are considered within Chapter 13 Transport and Access of the Environmental Statement. Specifically, para 13.8.29-34, 13.8.83-97 and 13.8.193-209 consider the impacts on various junctions around Chippenham; at worst these impacts are minor adverse and not significant.

3.13 Notwithstanding that the site is not an operational HRI site, none of the assertions made within the Rapleys report (related to noise, landscape, traffic, glint and glare) are not supported by the evidence submitted as part of the application and no alternative evidence is put forward by SNTS. Furthermore, no evidence is presented to set out precisely how any of the alleged impacts will result in an adverse impact on the operational use of an existing HRI facility or will affect the long-term viability of the industry as a whole.

The Limekilns

- 3.14 Section 8 (para 8.8 onwards) gives considerable context for the Limekilns, setting out general context, historical and cultural context, sporting significance and landscape significance. For the Limekilns, there is a significant amount of detail asserted for each impact to the gallops.
- 3.15 The Rapleys report asserts a high magnitude of effect on the Limekilns as a result of busyness, movement and activity, heritage, landscape, visual impact and glint and glare. It also sets out the opinions from those within the HRI on what impacts those individuals think the Sunnica scheme will have on the Limekilns. Most refer to the impact to the wider landscape, visual impacts, and how it would offput investors given the gallops current draw. There is however no direct link evidenced between the development being visible and owners threatening to pull out investment. Indeed, as noted within the Hatchfield Farm decision, investors have ‘very shrewd’ buyers who act for them and ‘behave in a business-like fashion’ (para 467) and that they take a considered view of any potential negatives associated with Newmarket weighed up against the ‘very clear benefits offered by the unique HRI cluster in Newmarket’ (para 479).
- 3.16 Looking at the impacts individually:
- 1 **Traffic (Busyness, movement and activity):** construction activity visibility is purported by the Rapleys report to have a “*significant impact on the tranquil rural ambience of the Limekilns*”. As noted in the ES (Chapter 10) [APP-042] “*the construction activity across Sunnica West Site A would also be separated from the ‘stud’ landscapes by the A14 and railway line, which are also considered to negate any perception of noise during the construction phase. The perception of the construction phase in the context of the movement along these infrastructure corridors would alter the setting of the LLCA, compared to the settled character of fields, but it is considered that the Scheme would not result in significant effects to LLCA 26.*” (Para 10.8.70). The asserted impacts in the Rapleys report in this respect do not reflect the evidence submitted with the application and are not supported by alternative evidence.
 - 2 **Heritage:** the Rapleys report refers to a Heritage Assessment undertaken for SNTS by Richard Hoggett Heritage, however the impacts referred to (at para 9.9 of the Rapleys report) appear to primarily relate to landscape impacts. We consider these alleged landscape impacts below. In any event, no evidence is provided to demonstrate how, from an alleged heritage perspective, the Sunnica scheme will have an adverse impact on the operational use of the Limekilns (or affect the long-term viability of the industry as a whole).
 - 3 **Landscape / visual impact:** the Rapleys report relies on a landscape assessment prepared for ‘SNTS’ (Michelle Bolger Expert Landscape Consultancy, 2022). This landscape assessment concludes the overall effect of “*the high valued landscape of the Limekilns Gallops would be major adverse, which is significant*” and that users would experience a high magnitude of change. This is a point of disagreement between the applicant and SNTS; Chapter 10 of the Environmental Statement (Landscape and Visual Amenity) concludes that:
 - a In relation to landscape effects, there will be a minor adverse (not significant) effect on the local landscape character area 26 (The Limekilns) during Year 1 Opening

(Chapter 10 [APP-042] Table 10-10), Year 15 (Table 10-24) and decommissioning (Table 10-27) noting that this area is already impacted on by the presence of the A14, A1304 and railway (para 10.8.255);

- b In relation to visual effects, some solar panels across would be visible for receptors at the Limekilns, due to the elevated position of the receptor - these 'static' solar panels would be seen in the context of moving vehicles and trains along the valley floor and would introduce a different colour tone via the solar arrays, across a wide extent of the view (para 10.8.261), resulting in a moderate adverse (significant) visual effect (Table 10-18) at Year 1 Opening, Year 15 (Table 10-24) and during decommissioning (Table 10-27) (receptor 38). The Chapter concludes that additional mitigation is not practical to reduce this visual effect because users of the Limekilns occupy an elevated position from which the scheme would be visible (para 10.9.2).

Notwithstanding that the parties disagree to the extent of landscape and visual impacts on the Limekilns, it remains the case that the Rapleys report does not provide any evidence to show that this landscape impact will have an adverse impact on the operational use of the Limekilns, nor will it affect the long-term viability of the industry as a whole. A simple change in the landscape of an operational HRI site is not sufficient to demonstrate conflict with the relevant policies; it must specifically have an adverse impact on the operational use of that site.

- 4 **Glint and Glare:** the Rapleys report asserts that (para 9.12) *"there is the potential for glint and glare impacts from Sunnica West Site A on the Limekilns depending on the design of the photovoltaic products to be installed as part of the development and the scheme layout and design. It has been accepted that screening the development from the Limekilns would not be possible. Any glint and glare impacts on the Limekilns that would arise could not therefore be mitigated by screening."* However, the report goes on to state that *"It is not possible to say with any certainty what the impact of the proposed development by way of glint and glare will be without the benefit of a specialist assessment"*. (Para 9.13). It is highly contradictory of the Rapleys report to conclude that any glint and glare impacts cannot be mitigated whilst then stating it does not know what the glint and glare impacts will be. In any case, the applicant has submitted a Glint and Glare Assessment which specifically considers the Limekilns.

The Rapleys report appears to be confusing Glint and Glare with Visual Impacts here. The Glint and Glare Assessment (ES Appendix 16A) [APP-121] clearly states that no solar reflection is geometrically possible towards the Limekilns either in the AM or PM and that no impacts are therefore possible (see Glint and Glare Assessment Table 7.11). No alternative Glint and Glare Assessment is referred to within the Rapleys report. The Rapleys reference to the fact that 'the applicant accepts that screening is not possible' appears to be referring to the visual impacts (i.e. the ability to see the solar panels in the landscape from the Limekilns) – which are discussed above – not glint and glare impacts. It is accepted by the applicant that, due to the elevated position of the Limekilns, it will be possible to see the solar panels from the Limekilns and that the scheme has an associated visual impact, however it does not follow that the ability to simply see the panels will result in glint and glare impacts. This appears to be implied within the Rapleys report.

- 3.17 The Limekilns' primary function is as gallops, i.e. for exercising racehorses, and no evidence is provided to show how landscape or visual impacts – or indeed any of the other alleged impact within the Rapleys report - will adversely impact this use. The industry maintains that the Limekilns also operates as a 'showcase' for Newmarket to investors (effectively, a secondary function), but again no evidence is presented to show that landscape and visual effects will adversely impact the Limekilns' use in this manner, particularly given that a) the Limekilns landscape is already experienced in the context of the existing roads and railway lines, and b) investors are shrewd and act in a business-like fashion, weighing up all the benefits Newmarket offers against any potential disbenefits. The Rapleys report is not supported by alternative evidence to support its claims about the impacts resulting from busyness, movement and activity nor its claims regarding glint and glare (which are directly contrary to the evidence submitted by the applicant).

Railway field

- 3.18 The Railway field lies immediately north of the Limekilns gallops, north of the A1304 and south of the A14 and railway line. The impacts are purported within the Rapleys report to be similar to the Limekilns albeit the magnitude of effects will be lower (noting that the Railway field occupies a less elevated position than the Limekilns), although again no specific evidence is referred to which supports this conclusion. Furthermore, no specific evidence is presented to demonstrate why and how the scheme will have an adverse impact on the operational use of this site for the purposes of exercising horses.

Godolphin's Chippenham/Snailwell Gallops

- 3.19 The main effects alleged within the Rapleys report are, during construction, related to construction landscape and visual impacts, noise, dust and busyness, and during operation, landscape and visual impacts, glint and glare and noise.
- 3.20 It is accepted by the applicant within the Glint and Glare Assessment submitted with the application (Environmental Statement Appendix 16A) that:
- "Solar reflections are geometrically possible towards the Snailwell Gallops Screening in the form of existing vegetation will however obstruct views of the reflecting panels for horse and riders ..., which will be further bolstered by the proposed vegetation. No impacts are predicted, and no further mitigation is required."* (para 9.6/page 70)
- 3.21 Based on this, it is reasonable to assume that glint and glare will not adversely impact the operational use of this site (nor will it affect the long-term viability of the industry as a whole).
- 3.22 In relation to the other alleged impacts, the evidence submitted with the application shows that:
- 1 **Noise:** Chapter 11 of the ES [APP-043] (Table 11-11) states that whilst it was raised during pre-submission consultation by Public Health England and Landowners that noise impacts on Noise impacts during construction and operational phases on PRoW users, equestrian users on bridleways and horses in training facilities, the assessment considers that no health impacts or long-term significant effects are considered to arise on PRoW users, equestrian users on bridleways or horses in training facilities; on this basis, no

further detailed assessment was considered to be required for these receptors. Notwithstanding, it is proposed that (para 11.7.2p) that noisy works during the construction and decommissioning phases will not be undertaken until after 10:00hrs in the work areas close to Snailwell Gallops;

- 2 **Landscape and visual impacts:** Chapter 10 of the ES [APP-042] acknowledges a minor adverse (not significant) visual impact on employment workers at the Godolphin Gallops (receptor 39C) during construction (Table 10-10) and negligible adverse (not significant) impact during Year 1 operation (Table 10-18); and
- 3 **Traffic:** Chapter 13 of the ES [APP-045] assesses the traffic impacts associated with the A142 corridor, which is the road extending north out of Newmarket providing access to the Snailwell Gallops. It does not identify any significant or long-term effects on this area (most impacts are negligible and short term, whilst some minor adverse [not significant] impacts have been identified for specific areas).

3.23 No empirical evidence is provided within the Rapleys report to support its asserted harm on the Godolphin Gallops; instead, it relies on statements from the industry who state construction and operational noise will or could impact neighbouring HRI facilities. The evidence submitted in respect of noise, landscape and traffic do not support these assertions. There is anticipated to be some glint and glare impacts, although these have been minimised through mitigation. In any event, the Rapleys report does not provide any evidence to demonstrate why and how the scheme (in particular any glint and glare impacts which may arise in the period before intervening planting becomes established) will specifically have an adverse impact on the operational use of this site for the purposes of exercising horses.

PROW 204/5 (Bridleway running SE-NW between Chippenham/Snailwell Gallops and Sunnica West Site A)

3.24 PROW 204/5 is used for rest and recovery activities for racehorses, according to the Rapleys report, given it runs past and is close to a number of training grounds (para 8.16). For the purposes of the relevant policy tests, it is therefore treated within the Rapleys report as a site in existing HRI use. The applicant does not dispute this definition but this is a matter which was subject to a request for us to engage with SNTS on and is a point which we have not yet come to an agreement.

3.25 The Rapleys report asserts a medium/high effect on this PROW, including, during construction, impacts on landscape and visual, noise, dust and busyness, and during operation, landscape and visual, noise and glint and glare. In respect of these purported impacts, we note the following:

- 1 **Noise:** as noted above Chapter 11 of the ES [APP-043] (Table 11-11) whilst noise issues were raised during pre-submission consultation by both Public Health England and Landowners, the assessed noise impacts during both construction and operational phases will not have any health impacts or long-term significant effects. This is when considering the effects on PROW users, equestrian users on bridleways, and horses in training facilities. On this basis, no further detailed assessment was considered to be required for these receptors.

Notwithstanding, it is proposed that (para 11.7.2p) that noisy works during the construction and decommissioning phases will not be undertaken until after 10:00hrs in the work areas close to Snailwell Gallops, which is also where PROW 204/5 is located.

- 2 **Landscape and Visual:** Chapter 10 of the ES [APP-042] specifically assesses PROW 204/5 across a number of locations. Receptor 41 represents recreational users on PROW 204/5 south-east of Snailwell (i.e. between the gallops and the scheme) where a moderate adverse (significant) visual effect is concluded during construction (see Table 10-10). Users of PROW 204/5 (receptor 39) would experience a minor adverse (not significant) visual effects during construction due to a subtle change to existing views and users of PROW 204/5 (receptor 40) at the A11/A14 crossing would similarly experience minor adverse (not significant) effects. During year 1 of operation, the impacts on these three receptors is assessed as being the same effects as during construction (Table 10-18). During year 15 of operation, the impacts would reduce to minor adverse (not significant) at receptor 41 (Table 10-24). During decommissioning (Table 10-27), negligible adverse (not significant) visual impacts are anticipated in regard to receptor 39, with minor adverse (not significant impacts) anticipated in regard to receptors 40 and 41.

The Rapleys report relies on the landscape assessment prepared by Michelle Bolger (see Rapleys report para 9.23) which notes that users of PROW 204/5 have high sensitivity. The applicant does not necessarily disagree with this, as receptor 41 in Chapter 10 of the ES [APP-042] is identified as having high sensitivity, however we note that, in the applicant's landscape assessment, the sensitivity changes along this PROW with the A14 crossing section having low sensitivity (ES Chapter 10 Table 10-7). The Michelle Bolger report concludes that receptors would experience and medium/high magnitude of change during construction and operation and that the effect would be moderate/major adverse, noting that once mitigation is established that views to the scheme would remain, particularly in winter months. The degree of impact on these PROW users is a point of disagreement between the applicant and SNTS.

- 3 **Glint and Glare:** the Glint and Glare Assessment (ES Appendix 16A) [APP-121] concludes, with respect of PROWs, that *"Solar reflections are geometrically possible towards most of the assessed Public Right of Way (PRoW), bridleway, and permissive path receptors. Screening in the form of existing and proposed vegetation will significantly obstruct the visibility of the reflecting panels for most observers; however, effects at some locations are predicted prior to and following the implementation and establishment of the mitigation measures. Solar reflections experienced by an observer along the PRoW, bridleway, or permissive path are not deemed to have a significant impact upon the amenity of an observer...due to the reflections having no associated safety hazard, the intensity of a reflection to common outdoor sources of glare that are frequently visible to observers, and the existing sunlight effects. No significant impacts are therefore predicted upon pedestrians or riders, and no further mitigation is required."* (p.5). The Rapleys report only goes so far as to assert that in terms of glint and glare there is *"potential for impacts depending on design of the photovoltaic products used, scheme layout and design, effectiveness of screening etc"* (para 9.22) but does not present any evidence to support this conclusion. Indeed, it appears directly contrary to the Glint and Glare Assessment submitted with the application.

- 3.26 In relation to noise, it is therefore unclear from the evidence submitted within the application how noise will have an adverse impact on the operational use of PROW 204/5 by the HRI, and no alternative evidence accompanies the Rapleys report to despite the assessment within the applicant's evidence. In relation to visual impact, it appears to be common ground that users of the PROW will experience an adverse visual impact during construction and operation (albeit the degree of this impact is not agreed between the applicant and SNTS). However, for the purposes of the policy tests pertaining to HRI impacts, it is necessary to also demonstrate how the scheme, insofar as visual impacts, will specifically have an adverse use on the operational use of HRI sites (or, in this case, the PROW used by the HRI, which, according to Rapleys, is used by the HRI for the purposes of rest and recovery activities for racehorses). No such evidence is included within the Rapleys report. In relation to glint and glare, no evidence is given in the Rapleys report to demonstrate that any purported glint and glare impacts will adversely impact the PROW insofar as its function as an operational HRI site. The Glint and Glare Assessment submitted by the applicant explains why no significant impacts are concluded in this respect.
- 3.27 In summary, the Rapleys report fails to demonstrate, with reference to any clearly supporting evidence, that the scheme will have an adverse impact on the operational use of the PROW insofar as it functions as an HRI site.

Summary

- 3.28 Overall, the Rapleys report fails to demonstrate, with reference to any clearly supporting evidence, how and why the scheme will have an adverse impact on the operational use any of the HRI sites to which it refers. In many cases, its claims are based on assertions and do not align with – or they directly contradict – the findings of the technical evidence submitted by the applicant, without any alternative evidence presented.

4.0 Summary and Conclusions

- 4.1 The conclusions at Section 10 of the Rapleys report, which set out the impacts of Sunnica on the HRI in Newmarket are largely drawn from quotes from the various interviews the author has undertaken with industry members (rather than based on evidence or a clear methodological framework).

Interpretation of policy protections given to the HRI

- 4.2 This is a NSIP being determined pursuant to the PA 2008. Under the PA2008 the local plan is not given the same pre-eminence it has when determining a planning application. While local planning policies protecting the Newmarket HRI are capable of being considered 'important and relevant' there is no requirement to determine the DCO in accordance with the Development Plan. Although the Scheme is being determined pursuant to section 105 of the PA 2008, and so no NPS has effect, the Applicant would submit that more weight should be attributed to NPS EN-1 and draft NPS EN-1 and EN-3 than to local plan policies seeking to protect the HRI – although it should be noted that the Applicant does not believe the Scheme would see a breach of the requirements of local plan policy. Moreover, there is no NPS which directly affords protection specifically to the HRI

- 4.3 Notwithstanding, reiterating a quote from the Rapleys report (at 5.12), the written representations (para 7.1.21) state that *“it is imperative that all is done to avoid causing potential harm to the major benefits that the horseracing industry brings to the area by avoiding and not imposing upon it harmful challenges and changes outside its control”*.
- 4.4 This is at odds with the local plan policies in plan in East Cambridgeshire and West Suffolk and the planning system more generally, as noted by the Hatchfield Farm Inspector (quoted previously). In that inquiry it is noted that
“the planning system does not countenance the refusal of planning permission solely on the basis of the unexamined objections of a particular interest”.
- 4.5 Decisions must be grounded in clear evidence; the written representations and Rapleys report rely entirely on speculation as to what ‘might’ or is ‘likely’ to happen, which is not based on any clear methodological framework or empirical data sources, and does not address how similar points were considered by the Hatchfield Farm Inspector and SofS.

Harm resulting from loss of investment

- 4.6 The competition and loss of investment argument (10.9) is entirely sourced to either the Jockey Club, Tattersalls and interviews with industry bodies, making virtually identical arguments to those made at Hatchfield Farm (i.e. that the HRI depends on continued investment, who are footloose and not readily identifiable, they have the option to invest elsewhere (location/sport), they are wealthy and picky, Sunnica will urbanise Newmarket which could put owners off, only one major investor loss could cause substantial harm, etc). As outlined in Section 2.0 of this briefing note, all such arguments appear at odds either with other statements contained in the Rapleys report or conclusions reached elsewhere, notably by the Hatchfield Farm Inspector and SofS.
- 4.7 The Rapleys summary report states that *‘there is a consensus amongst those in the industry that a loss of and/or reduced investment would be a very real possibility’* if the Sunnica went ahead (summary report para 20u) including most significant investors potentially pulling out of Newmarket and a *‘significant proportion of investors’* have other locations to fall back on with *‘plenty of other options’* for relocation.
- 4.8 However, this goes against the contextual analysis of Newmarket, its unique offering as a HRI cluster, Britain’s racing prestige more generally and the conclusions of the Hatchfield Farm Inspector that:
“race horse owners are “not daft”, have “very shrewd buyers who act for them” and, once invested, “behave in a business-like fashion”. There is, in my judgement, little, if any, evidence of them acting, or being likely to act, upon whims.” (IR467)
and

“Nor is there any real support for the view that there would be ‘knee jerk’ reactions on the part of owners or trainers, in response to perceptions on their part that planning permission being granted would create risks for the HRI in the long term. On the contrary, the evidence would, in my view, point towards owners and trainers taking a considered view of the impacts, if any.” (IR479)

- 4.9 Rapleys notes that ‘even a blip in results at Godolphin resulted in fewer horses to train and the closure of one of its yards in 2014’. However, news reports at the time⁵ stated that Godolphin had relocated these horses (from one of its smaller yards, approx. 30) to existing yards elsewhere in the town with staff redeployed and although it was speculated that c.20 jobs were lost, Godolphin confirmed there will “*definitely not*” be any significant reduction in the number of horses Godolphin has in training. Other reports⁶ suggest the restructuring followed the banning of one of its trainers due to a doping scandal (i.e. not related to the wider circumstances, such as proposed development, in Newmarket).

Threats from other locations

- 4.10 It has been established (Section 2.0 of this briefing note) that there is no evidence within the Rapleys report that Newmarket is under genuine threat (now or historically) from competing locations. Despite this, the SNTS written representations (Section 7) maintain that the Sunnica scheme will “*degrade the setting of horse racing in Newmarket*” and “*diminish Newmarket’s place on the world stage as the premier location for horse racing*”.
- 4.11 The written representations (para 7.1.19) reiterate that other clusters exist and compete in Ireland, France and USA, and that investors can invest in any location (or indeed any sport) they choose. “*A degrading of the experience in a highly competitive market may make all the difference for high net worth individuals’ decisions to invest*” (*emphasis added*) (para 7.1.21).

Other examples of decline

- 4.12 The Rapleys summary report also states that case studies (para 20i) show that racing faces threats and gets harmed as a result, although based on the analysis within the report (summarised in Section 2.0 above) there would appear to be limited evidential basis for this conclusion.

Impacts of other major development in/around Newmarket

- 4.13 The Rapleys summary report (para 20f) contends that “*fortunately, in Newmarket, despite the fact that significant infrastructure and development projects have occurred in and around the town over time (e.g. the Cambridge to Ipswich railway line and the A14/Newmarket bypass), major impacts on the horseracing industry have been mainly or wholly averted. This is because appropriate weight was given to the significance of the horseracing industry in the respective decision making processes.*” The railway line and A14 dual carriageway lie

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⁶

directly north of the Limekilns Gallops, and separate the gallops (and the town of Newmarket) from the land to the north, where the proposed Sunnica scheme is located.

- 4.14 We do not necessarily disagree with the first part of this statement, that despite significant development in/around the town, the HRI has continued to grow. At the most simple level, this is because horse racing in Newmarket has been taking place for several hundred years, over which time the town will have seen the arrival of roads, railways, housing, and grown to a population of around 16,000 people currently. Indeed, the Hatchfield Farm Inspector's Report (IR468) notes that *"I am mindful that the HRI in Newmarket has grown very considerably over a long period of time, while the settlement has become urbanised (with a commensurate rise in traffic levels). Development and the HRI have managed to co-exist with little difficulty. This has been achieved, one might consider, by balancing housing need against the needs of the HRI, whether consciously or not. The town and the HRI have adapted accordingly."*
- 4.15 However, the Rapleys report contains no detailed analysis of these cases to support the second part of its statement, i.e. that potential impacts have been averted because appropriate weight was given to the significance of the horseracing industry in the respective planning processes. The only reference within the report to either scheme (railway or A14) is *"The route of the A45 (now A14) dual carriageway was sent two-and-a-half miles out of its way to go round the Heath, countering a serious attempt to send it straight through the middle."* (para 8.1). This is sourced to 'Prescott, 2015' but the source material is not freely and publicly available.
- 4.16 No mention is made at all within the main report to the development of the railway line. Similar to the report's analysis (or, lack thereof) associated with mining proposals in the Hunter Valley region of Australia, the Rapleys report does not contain any spatial, economic or planning context for either the A14 or railway line, what the proposals originally consisted of (and how they changed over the course of the decision), what representations were made by HRI representatives and/or how HRI impacts were weighed in the planning balance against other benefits and harms of the scheme.

Harm to specific sites

- 4.17 The Rapleys report fails to demonstrate, with reference to any clearly supporting evidence, how and why the scheme will have an adverse impact on the operational use any of the HRI sites to which it refers. In many cases, its claims are based on assertions and do not align with – or they directly contradict – the findings of the technical evidence submitted by the applicant, without any alternative evidence presented.

Conclusions

- 4.18 Rapleys assessment of harm is set out in its summary report at para 22. We make the following observations about the claimed harms:
- 1 Whilst it is contended that the Sunnica scheme would 'erode' the horseracing industry's relationship with its rural setting and harm the local landscape by introducing a large industrial form into the landscape which - with respect of the Limekilns Gallops - cannot be mitigated, the report does not refer to any evidence (such as landscape and visual

impact assessment) or any other application documentation or any other documentation to support this position (para 20a/b/c);

- 2 The report says the scheme ‘would harm’ the operations of the HRI, the extent of this harm is not clear’. The report refers to noise, dust, busyness, movement etc during construction and glint and glare, noise etc during operation would be ‘problematic’, despite not referring to any technical documentation (submitted with the application, or otherwise commissioned by SNTS) to support this position (20d);
- 3 The report claims this would be especially true for horses at the Godolphin gallops – this is despite the Godolphin representations raising no such specific issues, rather simply stating that if the scheme did go ahead then the mitigation, as proposed, needed to be implemented (20d);
- 4 The report claims economic harm would be caused, and *“the evidence clearly indicates that the proposed development and the harm it would cause would deter and discourage investors, who already have plenty of alternative investment locations and options”*. Our review of the Rapleys report shows it does not contain any such evidence, indeed the assertion that investors have plenty of other options is entirely contradictory to the report’s own contextual analysis of Newmarket which paints it clearly as a location which is unrivalled and stands far ahead of even its nearest competitor, domestically and worldwide (20e);
- 5 The report claims the proposed development has the potential to reverse ‘some or all’ of the gains in investment made in the last 30 years, yet there is no evidence within the Rapleys report to suggest that some or indeed all of the investment made into Newmarket in the last 30 years could be lost as a result of the Scheme. Indeed, the report does not even go so far as to summarise what investment has taken place in the last 30 years, to providing a starting point for such an analysis (20f); and
- 6 In turn, the report claims all the aforementioned harms have the potential to cause ‘social harm’ as result of loss of employment, reduced income for business owners, etc (20g). This is despite the fact that no reference to ‘social harm’ is made anywhere else in the report, nor is there an empirical analysis of the extent to which other industries in the town rely on the HRI, what other forms of employment make up the towns economy, other economic opportunities, etc.

4.19 The Rapleys summary report concludes that:

“as a result of all of the above I can only conclude that the long term viability of the horseracing industry would be threatened by the proposed development and therefore that, in accordance with very clear direction of the relevant local planning policy, development consent should not be granted for it.”

4.20 Not only is this statement not supported by any evidence contained within the Rapleys report or any other work commissioned by SNTS or within the applications supporting documentation, but it is also based on a fundamental misinterpretation of planning policies (notwithstanding that this is a DCO application for which the decision-making process is different to planning applications). It clearly extends well outside the scope of the Rapleys

report to conduct a planning balance exercise which draws conclusions about whether consent should be granted.

- 4.21 In summary, Lichfields finds no evidence whatsoever within the Rapleys report to support the conclusion that the Sunnica scheme will threaten or impact the viability of the HRI in Newmarket. It contains little empirical analysis based on clearly identifiable data sources, does not establish a clear methodology for assessing needs, and draws most of its key conclusions from a small number of quotes from interviews with industry representatives.

Part 2 – Review of other representations

5.0 Review of the SQW and PWC reports

- 5.1 These reports are appended to the SNTS representations, which make a number of references to the reports' findings in Section 7.0. The reports are:
- 1 The PWC report explores the contribution of thoroughbred breeding to the UK economy and factors impacting the industry's supply chain (it is not a Newmarket-specific report). It was published in 2018. Its findings are not explicitly referred to by the Hatchfield Farm Inspector, although its findings were referred to by those giving evidence to the inquiry (including Matthew Spry of Lichfields, on behalf of the appellant Lord Derby); and
 - 2 The SQW report explores the economic impact of the horse racing industry in Newmarket. It was published in 2014. It was available at the time of the Hatchfield Farm inquiry (inquiry in 2019, decision in 2019) as well as the earlier Hatchfield Farm inquiry which took place in 2015. It is referred to in the 2020 Hatchfield Farm decision.
- 5.2 The applicant does not disagree with the findings of these reports. The analysis contained within them supports the contextual analysis for the strength and importance of the HRI which is set out in the Rapleys report, the Lichfields report and confirmed by the Hatchfield Farm Inspector. However, we note that no reference is made within the Rapleys report to these reports, or how they support any assertions that the Sunnica scheme will impact on any specific HRI sites or affect the long-term viability of the industry as a whole.

6.0 Review of Popham report and Godolphin Representations

Popham report

Authors and approach to assessment

- 6.1 The Popham report is prepared by Popham Planning Consultants on behalf of the SNTS group and NHG in response to the Lichfields report. At ISH3 it was confirmed by SNTS that the author of the Rapleys report and the Popham report is the same.
- 6.2 The Popham report is critical that the Lichfields report is produced by authors with no direct experience working with the HRI, contrasting this with the 'direct experience' which underpins

the Rapleys report⁷, and suggests that any weight which can be attached to evidence authored by Matthew Spry (Senior Director at Lichfields, with overall responsibility for the company's work on the Sunnica project) depends on the similarities or otherwise between Hatchfield Farm and Sunnica Energy Farm. The Popham report contends that the issues at Hatchfield Farm are materially different to those at Sunnica and therefore is not comparable to Hatchfield Farm.

- 6.3 As noted above (and as set out in the Lichfields Report) the applicant does not assert that Hatchfield Farm, as a scheme itself, is itself directly comparable to Sunnica. However, the Hatchfield Farm decision is clearly an important and relevant consideration as it provides obviously relevant findings about the HRI itself, its resilience and vulnerability to threats, and a clear methodological framework against which to test development proposals in general, having regard to local plan policies (see para 2.24 onwards of the Lichfields Report).
- 6.4 The Popham report states that:
- “...greater weight should be placed upon the views of those with direct knowledge of the HRI and, if the report is made by persons external to the HRI, an assessment of impacts obtained from those within the HRI of the proposals in question is essential. This was carried out in the Rapleys Impact Assessment which relies, among other things, upon interviews with established industry figures and knowledge gained through extensive desktop research, site inspections, and discussions about the history and workings of the HRI over many months.” (para 4)*
- 6.5 There is no reason why ‘greater weight’ should in principle be placed in the views of a particular group simply due to their first-hand experience, especially where it is possible – as is the case in the HRI in Newmarket – to carry out a thorough, detailed, empirical assessment based on secondary data sources. In any event, the views of those with ‘direct knowledge’ – such as trainers – has been extensively explored in the public domain, namely through the recent 2019 inquiry into Hatchfield Farm where a number of trainers and other high-profile industry members gave evidence (and were cross examined) on the inner workings of the HRI and what makes Newmarket so unique and then expressed opinions about perceived impact.
- 6.6 In that case, the Inspector and SofS came to a considered view and rejected the opinions of those in the HRI asserting harmful impact and giving more weight to evidence provided by those – including those representing the HRI – who observed that that investors were logically unlikely to withdraw investment given the relative advantages of Newmarket compared to other locations, that the HRI in Newmarket was “*exceptionally robust*”, and that its long term viability could even survive the loss of international investment.
- 6.7 In response to the background work which went into the Rapleys report, we note the following:
- 1 Self-evidently the Rapleys report relies on interviews. However, as noted above in Section 5.0, it draws almost all of its conclusions on the impact on the HRI from interview notes

⁷ Of contextual note, para 14 of the Rapleys report states: “*My knowledge of the horseracing industry was no more than that of the ordinary person prior to being approached by the Say No to Sunnica Action Group.*”

with a small number of interviewees who assert harm rather than evidence it. As noted by the Hatchfield Farm Inspector *“the planning system does not countenance the refusal of planning permission solely on the basis of the unexamined objections of a particular interest”*;

- 2 It is asserted that the Rapleys report has drawn upon ‘extensive desktop research’, and yet it fails to draw upon an extremely wide variety of data sources which are critical to understanding the HRI in Newmarket, a significant number of which are covered in the Lichfields report, for example information from Tattersalls, Directory of the Turf (or similar database), the British Horseracing Authority, World Thoroughbred Rankings, etc. One reference is made to the World Thoroughbred Rankings, although this reference is to a Deloitte 2015 report (which is not appended in full to the Rapleys report or the SNTS representations) on the HRI and the Rapleys Report does not present any data before/after this point;
- 3 The Rapleys report’s ‘extensive desktop research’ also did not include any research related to relevant planning decisions in Newmarket in recent years, notably Hatchfield Farm, which is strange given its obvious relevance;
- 4 This ‘extensive desktop research’ also did not extend to reviewing or referencing any technical supporting evidence, either prepared by the applicant or otherwise, such as landscape assessment, glint and glare assessment, etc; and
- 5 The Popham report also asserts the knowledge in the Rapleys report was obtained by undertaking site inspections, although there is no reference within the Rapleys report to such site visits taking place and how these visits affected the contextual analysis, assessment of impacts or the reports’ conclusions.

Importance of the HRI in Newmarket

- 6.8 The Popham report clarifies that it is common ground (between SNTS and the Applicant) that the HRI is ‘relevant and important’ in the context of the DCO application, in accordance with the Planning Act 2008, to which the Secretary of State must have regard.
- 6.9 Contextual summary for the HRI is given in the Popham report, which includes numerous references to the Lichfields report. This context provides yet further evidence that it is common ground that Newmarket is pre-eminent in the world of horse-racing.
- 6.10 However, the Popham report fatally misinterprets the policy context for the HRI in Newmarket, asserting that (para 10) *“the approach in planning decision making is not to consider whether [the HRI] is strong enough to be able to resist threats. Planning policy is for threats to the viability of the HRI as a whole to be prevented before they arise, not to be permitted and then regretted later.”* It is acknowledged by both parties that the relevant HRI policies are:
 - The East Cambridgeshire Local Plan, which does not permit development which would likely adversely impact an individual HRI site or which would threaten the viability of the industry as a whole; and

- The Forest Heath Local Plan, which similarly does not permit development unless the benefits would significantly outweigh harm to the racing industry.

- 6.11 In both cases, for the purposes of decision-taking on any application, it is necessary to make an assessment of the strength of the HRI at the present time and the potential effect of the development on any individual site or the industry as a whole. That was plain from the Inspector at Hatchfield Farm. Put another way, it is entirely the approach within the planning system to consider whether the qualities of Newmarket are sufficiently strong to remain attractive to horse owners and outweigh any perceptions of threats or disadvantages that might arise from a development (indeed, the Popham report appears to undertake this exact exercise within its subsequent sections). Further, the system explicitly does not exist for developments to be opposed simply based on them being asserted as a threat irrespective of their actual impact; as noted by the Hatchfield Farm Inspector the planning system does not countenance the refusal of planning permission solely on the basis of the unexamined objections of a particular interest.
- 6.12 The Popham report concludes that *“The decline from that [pre-eminent] position as a consequence of impact from the Sunnica development would be unlikely to be immediate, it would be likely to be gradual and, like the drip of a tap losing water from a tank, the decline of an industry over the long term can often be unnoticeable at first”* (para 11). But no evidence is given in support of this conclusion. In fact, at Hatchfield Farm a similar argument was made about the incremental growth of traffic, when in fact the industry grew over a similar period. At Hatchfield Farm it was also noted that the industry growth and investment has experienced natural ebbs and flows historically without experiencing any adverse impacts, suggesting that the industry operates within certain tolerances.

Impact on the operational use of existing sites within the HRI (Key question 1, as per local plan policies)

- 6.13 The Popham report seeks to reiterate the purported impacts on a number of specific HRI sites (para 20 onwards). Responses to address many of these purported impacts are covered already in the Lichfields report and earlier in this note. We note the following in relation to the addition information in the Popham Report:
- 1 **The Limekilns** (Popham report para 20a) – it is reiterated in the Popham report that the Limekilns function not only as gallops but as the ‘showcase’ for Newmarket’s HRI. The Popham report draws specific attention to these uses. In terms of the purported impact on the Limekilns (at 20(ii)) it is noted that a number of references are made to PROWs and the Snailwell Gallops; therefore a significant amount of what is contained within the Limekilns impact section does not actually refer to purported impacts on the Limekilns. At 20(ii) the Popham report reiterates the points made in the Rapleys report about the importance of the Limekilns as a ‘showcase’ for Newmarket and again refers to the Michelle Bolger landscape report to describe the changes in the landscape that will occur.
- The applicant does not dispute that there will be a change in the landscape and visual effects which cannot be mitigated against (because the Limekilns operates an elevated position, from which parts of Sunnica can be seen) – however for the reasons set out earlier in this note there is no evidence to suggest that there will be an adverse impact on

the operational use of the Limekilns – either in its operation for exercising and training horses, or as a showcase for investors (particularly in the context of all the other benefits offered by Newmarket, and the fact that investors act in a ‘business like fashion’ and will take into account all of Newmarket’s benefits when deciding whether to invest).

No evidence is provided by Popham to show that there is a link between the change in landscape and visual effects and the judgement that will be made by investors when set against all the benefits of Newmarket.

- 2 **The Godolphin gallops** (para 20b) – The Popham report sets out the alleged impacts of the scheme in the Godolphin/Snailwell gallops at para 20(b)(ii), although again it is noted that a number of references are made to other sites (such as PROW 204/5), meaning not all the impacts listed under this heading are not impacts on the Godolphin/Snailwell gallops.

The Popham report asserts a specific impact on the operational use of Godolphin’s gallops, stating “*There is assumed to be the potential for electrical equipment, in particular, to startle and/or scare horses especially racehorses, as a result of any noise it generates*” although the Popham report has not undertaken any noise assessment to support this claim and no reference is made to any supporting evidence or documentation to substantiate this assumption. Nor is the author an equine behaviourist qualified to comment on how horses might respond to purported noise impacts associated with the scheme. Indeed, the Popham report asserts that such unpredictable noises could spook and potentially danger horses and riders, whilst asserting (para 20(b)(ii)(b)) that these noises are ‘unlike’ the noise from traffic or from crowds at races or within stables/yard elsewhere.

The Popham report reiterates that glint and glare impacts could be experienced but acknowledges that mitigation is proposed which seeks to prevent any impacts (20(b)(ii)(e)) which is not disputed. However, the Popham report makes a number of assertions about how horses might behave if they experienced this glint and glare, despite the author of the Popham report not being a qualified expert in this field nor referring to evidence prepared by such an expert to support these claims.

- 3 **Stud Farms** (para 20c) – despite the Rapleys report not raising any issues in relation to specific stud farm sites⁸, the Popham report asserts a negative impact on the use of Brookside Stud as a result of the redirection of a PROW adjacent to its boundary, with ‘dogs and young persons who can cause a significant and unpredictable disturbance’ (20(c)(ii)(aa)). This is despite the fact that a number of public rights of way exist in/around Newmarket which are already adjacent to studs and other facilities (an example of PROWs in/around Saxon Street and its stud farms is shown in Annex 1 of this note, and other examples include PROWs adjacent to Red House Stud, Eagle Lane Farm, Stetchworth Park Stud and Bottisham Heath/Blue Diamonds Stud).

⁸ As noted earlier in this note the Rapleys report does raise a site-specific issue related the Chippenham Estate which was formerly used by Godolphin for breeding and training horses, although as explained this site is not considered to be in existing HRI use as it is currently used for grazing cattle. A number of stud farms are identified as experiencing harm within Table 1 of Section 7 of the Rapleys report however an explanation/justification for these harms is not set out within Section 9 of the Rapleys report.

The Popham report again makes an observation about horse behaviour and health at stud farms as a result of the scheme despite the author not being qualified to make these conclusions nor referring to any such expert evidence to support these claims.

The Popham report goes on to discuss the ‘industrialisation’ of the landscape around Newmarket, despite the Hatchfield Farm Inspector noting that (IR486) “*the HRI in Newmarket has grown very considerably over a long period of time, while the settlement has become urbanised (with a commensurate rise in traffic levels)*”. The Popham report then makes reference to the choices of owners to take their horses elsewhere, despite the Rapleys report noting that there is nowhere in the world like Newmarket.

The Popham report then asserts (20(c)(ii)(d) that “*emergency evacuation from the stud would be a significant problem and potentially impossible in the time required*” – it is unclear from the Popham report why the scheme would cause this problem, this was not issue raised by the industry within the Rapleys report and is not supported by any evidence accompanying the Popham report.

The Popham report also discusses the impacts of the scheme on the roads surrounding stud farms at para 20(c)(ii)(e) claiming that the scheme would ‘*make the road effectively out of bounds for racehorses*’ – this does not reflect the transport evidence submitted with the application (as described earlier in this note) and no alternative transport evidence accompanies the Popham Report. It goes on to claim that this would cause ‘*major economic harm to a business or even cause it to close*’, without any evidence to support this.

- 4 **PROWs** (para 20d) – The Popham report reiterates a number of alleged impacts in relation to the surrounding road and PROW network resulting from (noise, glint and glare, traffic and landscape and visual). Responses to these alleged impacts are given earlier in this note. The Popham report does not present or refer to any additional evidence (over and above that presented or referred to in the Rapleys report) to support these claims.

- 6.14 In summary, the Popham report does not provide any additional substantive evidence to support the assertions made within the Rapleys report about the alleged adverse impacts on the operational use of any specific HRI site or sites. Indeed the Popham report makes a number of claims which extend well beyond the professional expertise of the author, for example in relation to horse behaviour and health, without including any supporting evidence from relevant experts.
- 6.15 Our conclusion in relation to the Rapleys report – that it fails to demonstrate, with reference to any clearly supporting evidence, how and why the scheme will have an adverse impact on the operational use any of the HRI sites to which it refers – is unaffected by the Popham Report.

Impact on the HRI as a whole (Key Question 2)

- 6.16 The Popham report’s interpretation of local plan policies which relate to the HRI (para 24iii) contains the same fundamental misinterpretation made by the Rapleys report, and contains no reference to how such policies were interpreted in the Hatchfield Farm decision. Indeed the Popham report asserts (para 26) that Hatchfield Farm is not a suitable comparator for Sunnica

as its impacts were primarily traffic related within Newmarket itself which are not comparable to the alleged impacts of the Sunnica scheme. This is despite the Hatchfield Farm decision being used in the Lichfields report as a methodological framework for answering the ‘policy question’ rather than direct comparisons being made about the impacts of each scheme. Hatchfield Farm also addressed the threat/impact caused by the perception of grant of permission and what message this would send about the value attached to the HRI.

- 6.17 Surprisingly, the Popham report also questions the decision at Hatchfield Farm (para 27) suggesting that the Inspector and Secretary of State may have come to a misguided conclusion which was not, in Popham’s view, reflective of the policy test. Were this correct, the HRI would logically have legally challenged the Hatchfield Farm decision; but it did not. In any event, Popham’s assertion that *‘it would be folly for a trainer at a public inquiry to talk of leaving Newmarket’* is undermined by the fact that, in the 2.5 years since the Hatchfield Farm decision, no evidence has been put forward to show trainers (who may have been silent at the public inquiry) have in fact left Newmarket as a result of the granting of permission at Hatchfield Farm which is what was claimed at the time.
- 6.18 The Popham report offers an alternative interpretation of the statistics presented in the Lichfields report regarding international locations and their changes in world rankings in recent years, contending that growth (particularly in Ireland) is evidence of Newmarket having lost out to investment in those locations. The Lichfields interpretation is that the racing world has become more concentrated, with a number of locations ‘losing out’ to Ireland – but not at the expense of the UK and Newmarket, which has broadly retained its position. The Popham report asserts that *“Owners and/or investors who would or could have come to Newmarket have, despite its current pre-eminence, decided to go elsewhere, in particular to Ireland”* (para 32) but it does not follow that this means that the HRI in Newmarket is under threat and no evidence is offered to support this claim. The alternative, more likely, interpretation is that Ireland has attracted owner/investors who are not in the same league as the small number of wealthy international investors who currently dominate Newmarket and ‘crowd out’ or ‘close down’ opportunities for others. This hypothesis reflects the evidence of the Jockey Club at Hatchfield Farm (IR476):
- ‘Even Mr Gittus was clear that ... “at some point it [overseas investment] will be less than it is now”. This, he noted, “opens up opportunities for others”’*
- 6.19 No analysis is given of other racing centres or clusters in Ireland to show whether Ireland offers any locations which could realistically compete with Newmarket. There is also no reference to the reference in the Hatchfield Farm decision (IR477) where the HRI acknowledged itself that it has ‘had its ups and downs’ which ‘do not appear to have affected it adversely, which suggests the HRI can operate, and grow, successfully within certain tolerances anyway’.
- 6.20 The assertion that the *“Newmarket’s HRI is built on and underpinned by discretionary spend and expenditure”* (para 43) which is a lifestyle choice ignores the fact that, as noted by the Hatchfield Farm Inspector (IR467) that *“race horse owners are “not daft”, have “very shrewd buyers who act for them” and, once invested, “behave in a business-like fashion”. There is, in my judgement, little, if any, evidence of them acting, or being likely to act, upon whims.”*

- 6.21 The Popham Report's purported harm to Newmarket's historic value and its landscape value (para 46-47) contains no reference to any technical or supporting documentation to support its claims of harm.

Summary

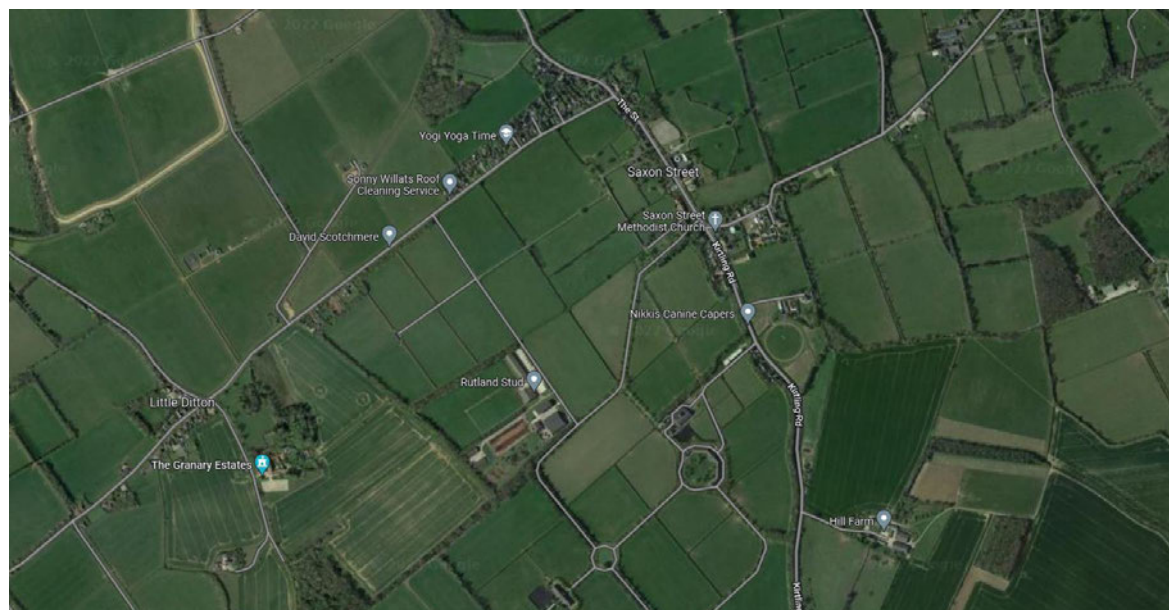
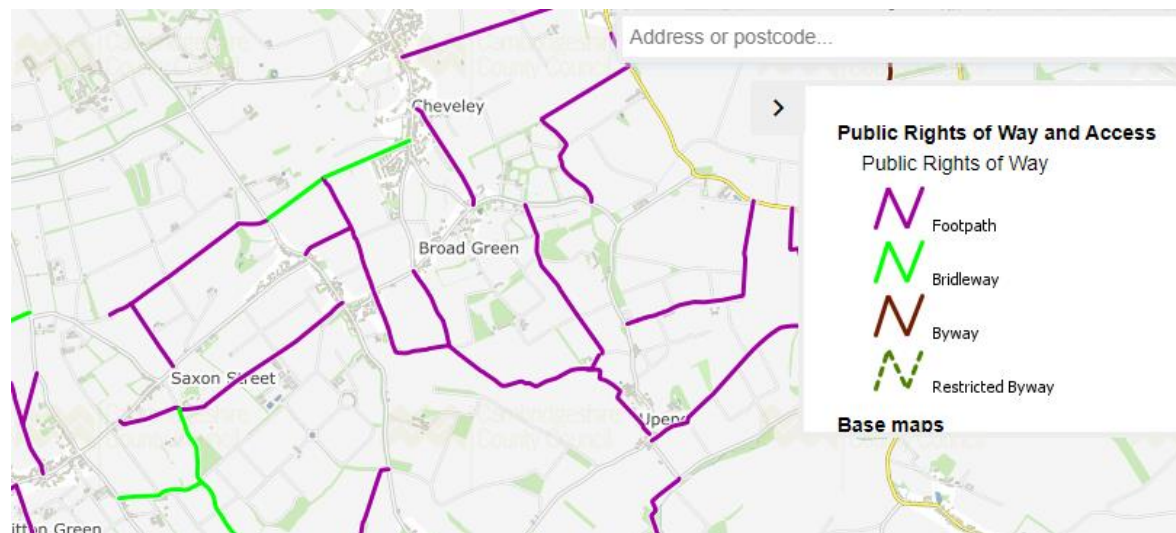
- 6.22 The Popham report contains no additional substantive evidence to support the alleged claims of adverse impacts on the operational use of specific HRI sites or harm to the long-term viability of the HRI as a whole.

Godolphin Representations (24th November 2022)

- 6.23 The Godolphin representations also respond to the Lichfields report, alleging that the report misinterprets Godolphin's original representation. We disagree; the Lichfields report (para 6.16) simply stated what the Godolphin representation had said, and, importantly, what it did not say. Godolphin's November representations reiterate its 'in principle' objection to the Sunnica scheme, however again it does not provide any supporting evidence (or point to any technical documentation) to support its position

Annex 1 Examples of public rights of way in/around Newmarket which are adjacent to stud farms and other facilities

Figure A3.1 Public Rights of Way In/around Saxon Street



Source: Cambridgeshire County Council, Google Earth