

Funicular props could create new problems

IN my objection to the planning application for the funicular repairs I referred to the pillars that are to be erected to strengthen and support the existing piers as there is no detail of how they will be manufactured.

I believe that these props will have a significant effect on the economic viability of the funicular and therefore Cairngorm Mountain (Scotland) Ltd.

Presumably they will be corrosion resistant steel and have to be adjustable to allow for movement of the existing piers but more importantly, temperature changes throughout the day, temperatures varying from probably below -10C to +27C, and that is where the problems start.

All metals have a co-efficient of expansion, i.e. as temperatures increase they expand and when temperatures decrease they contract.

At the beginning of every day before the funicular can open, every one of the 128-plus props will have to be manually examined to make sure that the correct pressure

is applied to the flawed recommendations to approve

the extra props will cause more snow to build up around the piers increasing the time it takes to clear snow from the track.

As it is believed that use of the pistebasher in snow-clearing operations may have contributed to the damage to the viaduct, all future snow-clearing operations will have to be carried out manually, increasing the delays in opening the funicular.

These delays will also increase customer dissatisfaction and the knock-on effect will be a loss of more winter trade to Aviemore and the surrounding area.

Unless the funicular is removed and replaced with a more user friendly form of uplift, I fear that the Cairngorm ski resort will slowly slide into oblivion, which will be a great loss to Scottish skiing.

**Graham Garfoot
Jarrow
Tyne and Wear**

Letter Strathy 14th May from Parkswatch contributor Graham Garfoot. HIE has refused to release the engineering reports on which the proposals to repair the funicular are based.

Highland and Island Enterprise's Planning Application to repair the funicular is to be considered Friday morning ([see here](#)) and Cairngorms National Park Planning Officers have recommended it be approved. Parkswatch has previously covered why this is wrong: in the context of Covid-19 ([see here](#)) and ([here](#)); commercially([see here](#)); from scrutiny of the planning papers, including the justification from an engineering perspective ([see here](#)); and in terms of the environmental impacts over a large part of Cairn Gorm ([see here](#)). This post just take a critical look looks at the Cairngorms National Park Authority Officers justification for their recommendation.

The meeting is being broadcast live from 10am ([see here](#)) a first and I have asked the Park if they will make this available afterwards as a webcast. That would be a major step forward in terms of transparency. Remarkably, there was only one letter in support of the application, from the Community Council, and they clearly stated the application should not have been put forward before the consultation on the proposed masterplan was complete.

The alleged justification for this Planning Application

The Officers' main argument in support of the application is that since the funicular is already built, the principle of development has been accepted, and that this application is just about repairs to the piers. That I believe is wrong. As previous posts have shown the repair of the funicular has implications for the future of both Cairn Gorm the mountain and Cairngorm Mountain the business. This is reflected in the CNPA's own summary of the objections:

- a) Concerns raised relating to the accuracy of the application details for the proposal;
- b) No Masterplan for Cairngorm Ski Area and the application is pre-mature publication of the outcome of the community consultation on “The Future of Cairngorm”;
- c) Impact of proposal on increasing flood risk and its potential increase with sea level rise and off rates;
- d) Proposal conflict’s with CNPA’s Working Principles for Cairngorm Mountains;
- e) Insufficient information submitted relating to environmental assessment of the proposal, including peat management, restoration works, construction materials, fuelling areas, ecology information;
- f) Concern regarding the scale of works for the working corridor and the impact on its reinstatement;
- g) Request for the suspension of the application’s consideration until post-consultation;
- h) Red line development boundary does not cover the whole site impacted by the proposal and the application is therefore invalid as it should be part of a full application process;
- i) Concern regarding the sensitivity of the site as works will cause significant damage to habitats, ecology and landscape;
- j) Temporary tracks and existing track upgrades should be included within the red line boundary and concern is raised regarding the temporary nature of the works and their retention in the future;
- k) Concern regarding the accuracy of the information with conflicting information, such as the number of props to be installed,;
- l) Props introduce a visual intrusion to the area;
- m) Use of helicopters is inconsistent with CNPA decision for the Ptarmigan application due to the risks associated with protected birds;
- n) No demonstration that the works will address the issues and fix the funding issues;
- o) No business case to support the repair of the funicular and the funicular’s contribution to the local economy and its viability is queried.

Instead of considering these, the CNPA dismisses them as not relevant on the basis of a few sweeping arguments.

The need for a masterplan and the Cairn Gorm Working principles

Claim: "It is the Officer's view that the application does not prejudice any future development or management of the ski centre that the masterplan may set out, as the continued operation of an existing facility at the ski centre is clearly consistent and compatible with the existing use and operational efficiency of the existing business at Cairngorm Mountain".

This is almost certainly wrong as, given the cost of the repairs is £10m plus, it's a case of either repair the funicular OR put in new lifts. Its very unlikely there will be money for both - or has the CNPA been told there is an unlimited budget for Cairn Gorm? The CNPA was also very clear in the working principles they adopted over a year ago ([see here](#)) that a masterplan should be required BEFORE any further Planning Applications were submitted by HIE. Instead of treating the Principles Document as a material consideration in planning terms, CNPA officers have dismissed its significance and effectively undermined their own Board.

Economic justification

Claim: "The costs of the strengthening works and peoples' opinions on the value for money or use of public money are matters for the applicant and are not relevant to the determination of the planning application".

Comment: the Cairngorms National Park Authority has a statutory duty to promote sustainable economic development, so why have officers abdicated that responsibility in this case?

Development Area

HIE applied for planning permission for work around 65 of the piers supporting the funicular but none of the other ground that would be affected by the works, such as temporary tracks and track upgrades ([see here again](#)). A number of people objected to this but CNPA officers have tried to dismiss those objections in the Committee Report on the following grounds:

49. A number of objectors have raised concern regarding the proposed development as submitted, and illustrated by the red line area on the plans. As previously highlighted, the application has been put forward for consideration of the development works of adding props to the existing piers. The applicant has provided further details of temporary construction access arrangements and temporary compound areas, by way of reference, and confirms that these all fall within the stipulations of Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. For matters of clarity, this planning application considers precisely what has been applied for in respect of the permanent works included within the red line areas on the submitted plans and this report also considers these permanent works and their acceptability in relation to the proposed development plan and other material planning considerations as outlined in the report. However, it should be noted that the processing of a planning application under section 37 of the Town and Country Planning (Scotland) Act 1997 is not a mechanism to determine the legality of other issues, such as the potential for other works outside the red lined area, which the applicant makes the basis that they would be permitted development. This instead would be covered by sections 150-153 of the 1997 Act.

If 0.5% of the population can understand that I'd be surprised. The obfuscation appears quite deliberate and is how the Planning system promotes the interests of developers, in this case HIE, over those of the public. Dress Planning decisions up in technicalities and jargon and the public and Committee Members are put on the back foot. It's taken me a fair bit of time to unravel but I will do my best to explain the technicalities in ordinary language.

What paragraph 49 appears to be saying is that, because HIE confirm that all the works outside the 65 red lines round the piers which demarcate the areas included in the planning application are permitted developments associated with the proposed work (Class 14), therefore those works do not require planning permission. Note that CNPA officers don't say in the report, confirmed to our satisfaction, rather they have accepted HIE's word for it.

CNPA officers' acceptance of HIE's claims that temporary tracks come under Class 14 looks highly dubious. This is because the wording of Class 14 the General Permitted Development Order ([see here](#)) appears to apply to machinery and buildings temporarily placed ON land, not temporary alterations to the land itself:

PART 4
TEMPORARY BUILDINGS AND USES

Class

14.—(1) The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land.

(2) Development is not permitted by this class if—

- (a) the operations being or to be carried out are mining operations; or
- (b) planning permission is required for these operations but has not been granted or deemed to be granted.

(3) Development is permitted by this class subject to the conditions that, when the operations have been carried out—

- (a) any building, structure, works, plant or machinery permitted by this Class shall be removed; and
- (b) any adjoining land on which development permitted by this Class has been carried out shall as soon as reasonable practicable, be reinstated to its condition before that development was carried out.

Temporary alterations to land, such as new drainage channels or river diversions for hydro schemes, which are a necessary part of developments are normally included in planning applications. Indeed, until now the CNPA has included temporary tracks in planning applications, for example for hydro schemes. This is illustrated by the Glen Muick hydro scheme ([see here](#)) where Prince Charles was obliged by the Planning Committee to *include details for the compound areas and pipeline route and any temporary access track* in the Construction Method Statement. So why, is HIE being allowed to do something that the CNPA has never allowed even royalty to do before?

I doubt it's lawful and if the Planning Committee agree to this it will set a very unwelcome precedent. If it's approved it's difficult to see how the CNPA would ever again be able to control how temporary tracks associated with developments are constructed or restored. That really isn't good enough for a National Park.

The last two sentences in para 49 of the report are again jargon. Essentially they say that unless a member of the public asks the CNPA to determine whether works such as those proposed at Cairn Gorm need planning permission or not, they won't do anything. (Section 37 says that if a Planning Authority receives a planning application they can agree to it or refuse it ([see here](#)). Sections 150-153 ([see here](#)) say that if anyone wants to find out whether an existing or proposed use of land is lawful, i.e. whether it needs Planning Permission or not, they can ask the Planning Authority to decide this).

All this appeared to me to be a serious abdication of responsibility so I emailed the CNPA earlier this week and, to their credit, got a response. This which included the following:

The applicant has provided sufficient details of those temporary works in addition to the permanent works for the CNPA to undertake EIA [Environmental Impact Assessment] screening of both the permanent and temporary works described and has determined that no EIA was required for the individual or combined works.

Unfortunately, there is NO mention of any EIA screening having taken place in the Committee Report nor can I find any mention of this on the Planning Portal (normally Planning Authorities publish their

EIA screening opinions). The Ecology report and Scottish Natural Heritage in their responses to the application both say there is no "appropriate assessment" is needed for "European" protected areas but don't say whether an EIA might be needed or not. The Committee Report does, however, state (under conditions 4 and 6) that the development is in an environmentally sensitive area. That begs the question of why the CNPA believes no EIA is required. The Planning Application does not give many details of the temporary tracks or proposed track upgrades so its almost impossible to ascertain how large an area will be affected but it appears considerable. All the more need for an EIA, added to which is the sensitivity of much of the ground at Cairn Gorm.

The remainder of the CNPA's response provides some helpful clarifications about the tracks, notwithstanding the fact I don't accept they come under Class 14. It says the developer must have the "ground reinstated to its condition before the development was carried out", for the track to remain a permitted development under Class 14. It also says: "If those works are significant enough to require planning permission (and not all upgrading works do), then they would only be permitted under class 14 if they are temporary". The Committee Report says nothing about the track upgrades will be permanent or not. However, the Planning Application states:

For piers 33 to 47 we will upgrade funicular. We will provide temporary with SEPA we provide an additional watercourse adjacent to pier 35. To expose the buried original access construct the new prop foundation

No mention here of the upgrade being "temporary" which it would need to be to have any chance

It seems therefore that these track upgrades aren't temporary and therefore DON'T come under Class 14. They should therefore be treated like other new tracks and significant track upgrades in National Scenic Areas and be subject to planning permission

Anyone who has walked the Shieling track, which runs parallel to part of the southwest side of the funicular, will know that it is not suitable for heavy machinery and would require extensive upgrading works to be so used. Those works will be even more extensive in its upper section which is steep, liable to erosion and contains bends which are too narrow for the proposed machinery.

It is also predictable that, given the need for DAILY checks on the supports to the piers to adjust them to the prevailing temperatures (see Graham Garfoot's letter), HIE will in future apply for the

temporary track up by the piers to become permanent (just like all the temporary construction tracks to hydro schemes in the Loch Lomond and Trossachs National Park which were subsequently made permanent).

Given the past saga at the Shieling ([see here for example](#)) it should also be obvious that there is not a chance of HIE restoring any upgraded or temporary track back to even its current condition. That record makes officers apparent failure to examine critically HIE's claims that everything outside the red lines round the 65 piers should be classified as permitted development all the more surprising.

Unless the Planning Committee is satisfied all the works outwith the areas around the 65 piers come under Class 14 because they really are temporary and really will be fully restored, these works should be included in the Planning Application. Since what is proposed, is not clear, it's difficult to see how the Planning Committee could approve this application as currently framed even if they were minded to do so.

The CNPA and HIE use the same legal firm for advice - Harper MacLeod, whose Chairman was until very recently the Chair of HIE. If CNPA was acting the way an independent planning authority should, then they would have/should have sought independent legal advice on the matters raised by this application. I'm willing to bet they have not.

Category

1. Cairngorms

Tags

1. Cairn Gorm
2. CNPA
3. HIE
4. natural environment
5. planning
6. restoration

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Author

nickkempe