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Dear Board Member

Please find below some additional comments on the funicular strengthening application (2020/0076/DET) to be determined tomorrow, that we hope will be useful.

Kind regards

Gus Jones

Convener

There is no question that the temporary and permanent works all constitute development. Yet in the approximately 3 ha to be covered by a Certificate of Lawfulness, the CNPA would not have powers of planning control and there would be no planning conditions nor enforcement.

Within the 65 red line rectangles the CNPA Ecologist identifies the need for protection of water voles and reptiles for example, yet there is no option of such controls over the wider area within this development.

The environmental construction standards in place when the funicular was originally constructed are not being upheld in this application (for example, replacing rocks the right way up so that lichens and bryophytes are exposed and can survive). What message does it communicate if environmental standards plummet after the area becomes a National Park and when a biodiversity crisis has been declared?

Due to the sensitivity of the location there should be an Environmental Impact Assessment. There needs to be fuller recognition of the value and sensitivity of the species and habitats, their proximity to designated sites, the contribution to supporting the species and integrity of those sites, and the sensitivity to impacts and slow recovery rates.

How can Board members have confidence that the 'temporary' tracks will be reinstated following construction. What basis for refusal would there be if it is claimed that access tracks will be needed for ongoing maintenance and it is less damaging to use existing tracks than construct new ones.

The claim in the planner's report that this application does not pre-judge anything in the Master Plan is unconvincing.

It is unclear how the CNPA is able to determine whether this application complies with the 4 aims of the Park, given the gaps in information provided and the significant uncertainties over finance, both for the repair work and the ongoing running of the funicular.

The CNPA should not be facilitating the disingenuous approach of splitting up the development into 65 parcels which avoids size thresholds. This is an abuse of the planning system and a more transparent example of 'salami-slicing' a development in a way that avoids legal obligations would be hard to find. No planning authority should facilitate this.

Surely Board members should be seeking to avoid reputational damage for the National Park at a high profile site in public ownership, where a new approach is needed?

Below is text already supplied to the CNPA planning team earlier this week, to be read out at the meeting.

*BSCG is concerned that it would be unlawful for the planning authority to grant permission because this application should have been a major application.*

*Through dividing up the application red line boundary into 65 different parts, the applicant has reduced the area of the application to be under 1 ha in size. The actual area impacted will be over 4ha.*

*This 'salami-slicing' of the red line boundary has the dual effect of bringing the application under 2 ha which is the threshold for a major application, which would have required a Pre Application Consultation; and of bringing the application under 1 ha which is the threshold for requiring an Environmental Impact Assessment.*

*We are concerned at the use of a Certificate of Lawfulness for the temporary tracks. This means that the CNPA does not have control over the exact locations, methods of construction or reinstatement standards of these tracks. If the tracks, that are a necessary part of the development, were included within the red line boundary and were therefore subject to a planning application, then the CNPA could apply, and enforce,  planning conditions in the normal manner.*

*We consider that the applicant should provide all the information pertaining to the strengthening of the funicular at the same time, so that the CNPA has access to all the relevant information on which to base its decision. It is not clear how the CNPA can be in a position to assess whether this proposal complies with the aims of the Park, including in particular the 1st and 4th aims, when there are so many gaps in the information provided.*

*BSCG is concerned at the introduction of the phrase “unless otherwise agreed in writing" to qualify the suspensive conditions, which appears to significantly reduce the effectiveness of the suspensive conditions.*

*We would like to emphasise that the ski area remains an area of significant, high biodiversity with sensitive and fragile habitats. The wider impacted area beyond the red line includes a lot of wet ground and these areas support some of the unique special features of the Park as well as being very susceptible to degradation through vehicle use.”*