

Dr Stephen Johnson
Head of Operations
Heritage Lottery Fund
7 Holbein Place
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16th February 2004

Dear Stephen,

Further to your letter of 4th February, I have now received from Ellen Dempster the fuller background of information of the January decision of your Trustees on the fate of the West Pier.

I need to study the material more carefully and discuss it with colleagues before commenting in detail. However, even on first perusal several key factors seem to be clear. Firstly, that none of the external expert advice commissioned by the HLF reported negatively on the viability and heritage value of our project. Secondly, that neither your Board nor Panel seem to have differentiated the decision on the specific BWPT/St Modwen scheme from the decision to also withdraw from the HLF commitment to BWPT entered into either eight or six years ago. HLF officers knew that alternative schemes were under consideration (eg I reported on them orally at our meeting last November in detailing what I knew about the options being examined by English Heritage). The information you have supplied does not help us to understand why your Trustees, having determined negatively on the BWPT/St Modwen specific scheme, did not allow time for further discussion with BWPT, EH and BHCC on the viability of other options rather than withdrawing their commitment? Thirdly, the essence of my initial analysis of the material supplied is that there was a major difference of judgement on the heritage value of the West Pier between English Heritage and the HLF's historic buildings and Land Panel. The EH report to the HLF asserted that the positive case for that heritage value was 'irrefutable'. Your Panel not only challenged that judgement but queried whether EH was right to continue the Grade I listing of the pier following the damage to the pier in 2003. It appears that your Trustees accepted the judgement of their internal Panel without any attempt to first resolve the difference with the statutory authority responsible for heritage assessments?

I will pursue those matters further after the fuller analysis of the information and the discussions with colleagues and partners. However, my main point in this letter is to explain why I think that the HLF cannot responsibly withdraw from its commitment to the West Pier ie wipe out the in-principle agreement to contribute the remainder of the £15m indicated in 1998. Our ability to submit a fresh application from 'square one' with the slate wiped clean of the eight and a half year history of our application is not acceptable to us.

The principal reason for that unacceptability is that the HLF, at a minimum, shares responsibility for the factors which it cites as grounds for withdrawing from that commitment.

The HLF's moral commitment towards the restoration of the West Pier commenced in 1995. Following the then Prime Minister's public statement in 1994 that the West Pier was a prime example of the reason why the National Lottery (and, thus, the HLF) had been created, senior HLF officers advised BWPT to submit an application for 100% funding of the £30+m required to restore the West Pier. The HLF officers specifically advised BWPT not to seek public or private sector partners. BWPT submitted an application on those terms in June 1995. If that application had been accepted, the West Pier would have been restored by 1999; in time for the Millennium celebrations.

Despite the views of the HLF officers on which the 1995 application had been based, the HLF did not accept the application. Discussions with new HLF officers in 1995-6 resulted in the notion of the HLF

funding the restoration of the sub-structure and deck of the pier leaving BWPT to then complete the restoration with public and private sector partners. BWPT met the conditions set by the HLF by summer 1996. The HLF Trustees again backed away from fulfilling the commitment; had they not done so, the restoration of the West Pier would have been achieved by 2000/1. Instead, the HLF Trustees invested circa £1m in temporary repair to the pier and set BWPT a further hurdle of a feasibility study (why had that not been suggested in 1995?).

In spring 1997, the independent feasibility study reported positively but the HLF Trustees again backed off from commitment and set BWPT a further range of tests; had they not done so, the West Pier would have been restored by 2001.

By 1998, BWPT had again completed those tests but the HLF Trustees shifted the goal posts at the last minute. For two years the deal had been that the HLF would fund the restoration of the deck and the sub-structure; for a year it had been clear that the HLF would not do so until it was assured that BWPT had agreements in place to complete the restoration and to guarantee its sustainability. BWPT had those agreements in place by 1998, when the HLF suddenly changed the terms; rather than sequential HLF/BWPT completion of the sub-structure followed by BWPT/private sector partner completion of the full restoration, the HLF required private sector funding in the initial sub-structure phase. A sequential deal was turned into one in which a private sector partner would not commit until all of the necessary permissions were in place for the full restoration and the associated enabling development. If the HLF had not shifted the goal posts in 1998, the West Pier would have been restored by 2002/3.

It is important to stress at this point that there was no significant opposition to the plans for the restoration of the West Pier up to 1999. In particular, the owners of the Palace Pier publicly supported the plans and had so informed the HLF. The pier itself was in good condition. It was the caution and changing requirements of the HLF Trustees in 1995, 1996, 1997 and 1999 that prevented the restoration of the West Pier. I maintain that the full restoration would have been achieved had the HLF been more positive in its commitment but what is beyond doubt is that what is now perceived as an option (the restoration of the 1866 pier) would certainly have been fulfilled before any significant opposition materialised. The HLF Trustees bear some responsibility for the wasted opportunities of 1995-8.

By January 2001, BWPT had again met all of the further hurdles placed by the HLF and the HLF Trustees again confirmed their commitment to the '£15m' contribution. Implementation of the agreement reached with the HLF was then halted within weeks by decisions taken by HLF officers on the legal objections and challenges posed by the owners of the Palace Pier. The Palace Pier had tried to challenge plans locally from 1999 till 2001, but without success, but as soon as they hired expensive London solicitors the HLF's in house lawyers sought comfort from Treasury and DTI lawyers who in turn referred their complaint to the European Commission in Brussels. It was a decision of the HLF to halt all action on the project whilst legal matters were under consideration by HMG and the European Commission.

But the Pier continued to deteriorate and BWPT feared its ability to survive a severe winter. In October 2001 a submission was made to the HLF with their encouragement, for emergency works and specifically a package to preserve the Concert Hall structure. It was emphasised in this submission that if work was to be practicable in 2002 then approval must be obtained by March of that year. In December the HLF decided to include the emergency works proposals in the suspension of action until clearance was received from Brussels contrary to its encouragement in October. In March clearance had not yet been received from Brussels so BWPT made a proposal for a minor adjustment by the HLF to internal procedures which would achieve the emergency works in 2002. The proposal was rejected by the HLF and the Pier partially collapsed later in 2002.

The reasons cited by your Trustees in January 2004 for their withdrawal of commitment (the physical state of the pier, the inflationary increase in costs and the 'uncertainties') all stem from the handling of the challenges from the owners of the Palace Pier and the resultant suspension of action over 2001-2. The external experts confirmed to the HLF that those factors were outside the control of BWPT and St Modwen; they were not outside the control of the HLF.

My purpose in writing the foregoing is not to allocate blame for the current sad state of the West Pier and the plans for its future, but simply to demonstrate that responsibility for that state is shared. In

terms of natural justice it is not fair for the HLF to withdraw from its commitment on grounds for which it is more responsible than the applicant.

In conclusion, I ask that your Trustees be invited to review their January decision with a view to reinstating the 1998 in principle agreement. All of the parties can then get down to the urgent task of devising a scheme for the future of this major heritage asset which meets the heritage and financial conditions of the HLF, EH and BHCC.

I am copying this letter to a few of our supporters.

Yours sincerely,

Dr Geoff Lockwood
Chief Executive

Copies: Sir Lindsay Bryson (BWPT), Fred Gray (BWPT)
Nick Doyle (St Modwen), Anthony Glossop (St Modwen)
Andy Brown (EH), Richard Morrice (EH)
Ken Bodfish (BHCC), David Pnter (BHCC)