

“If you don't know where you are going, you will probably end up somewhere else”. (Quote: Laurence J. Peter 1919 - 1988)

- SBC rejected a planning application in 2000 from Gael Mackenzie (GM) when the building was in disrepair but still viable for conversion.
- SBC decided in 2001 to join with GM and seek a development partner to secure planning for a wider redevelopment by including the two car parks.
- SBC produced a design statement in 2002 for the site. This was approved by Councillors featuring two 12 storey buildings. This did not secure public support when exhibited and was subsequently revised to 7 storeys.
- SBC took 6 years to agree a contract with the selected development partner and 7 years to bring the first planning application before the planning committee.
- SBC granted full detailed planning approval in September 2008 for principally a residential scheme with Registrar office, restaurants, bars and coffee shop. An approval they now seek to abandon.
- SBC rejected proposals in May 2009 which could have allowed the approved development to commence given the economic climate in 2009. Instead they chose to leave the development partner to find the solutions to restoring project viability.
- SBC Councillors fully supported the proposal to introduce a more mixed use development, providing the height of the buildings was identical, and the massing of the buildings not significantly different to that of the approved scheme of September 2008.
- SBC received the revised planning application in June 2010 following two full presentations to the Leader and Councillors on 11 February and 28 May 2010 which they supported.
- SBC made little to no progress in 20 months to amend the contract with the development partner to reflect the removal of the Registrar office and to allow the time necessary to bring forward the new hotel based proposal which they were supporting.
- SBC Councillors committed a major “U” turn just 8 days before the hotel based application went to Committee. They had changed their mind following a number of complaints about the Places for People development on Pipers Way. They no longer wanted a 7 storey building as previously approved for the Locarno having decided a new design brief was required for a 3 storey redevelopment.
- SBC Councillor is quoted as saying to the development partner ““don't waste your time speaking at the planning committee meeting it is a done deal, there is nothing you can do”
- SBC refused the agreed new hotel based proposal as expected on 8 February 2011 and requested the planning officers to produce a new design brief for the site for 3 storey buildings.
- SBC knew (but did not state) a smaller scale development would be less viable and would cost the Swindon taxpayer in excess of £850,000 and cause a similar loss to Gael Mackenzie, which might also be their responsibility.
- SBC attempt to terminate the partnership agreement with BHL on 9 February 2011.
- SBC are in breach of contract having grossly misled both development partners causing BHL and GM significant losses and considerable waste of time / effort.
- SBC Councillors have not looked after the best interests of the people of Swindon. They now face very serious litigation and have set the regeneration of this project back years, even if they can persuade others to follow what will now be the 3rd “approved” design guide, which is highly unlikely.

The Locarno.....a factual account.

Gael Mackenzie (GM) purchased the Locarno property in 1999. The property had been vacant since 1984 and was in poor condition. The proposal was to undertake a major refurbishment of the building which would provide an entertainment venue with bars and restaurants. This proposal was rejected and a licence was refused.

In 2001 Swindon Borough Council decided if they included the planks and square car park a more comprehensive redevelopment of the area would be possible and preferable. SBC produced a detailed design guide which was approved by the Councillors. Councillor Mike Bawden is quoted in the Swindon Advertiser on 20 November 2001 saying.

"We've got the Old Town area motoring very nicely at the moment, so we can't afford to miss this opportunity to finally sort this one out. Mr Mackenzie has owned it for so many years and nothing has happened, so we're now trying to see if we can agree on a joint project.

"There is good discussion taking place to complete what is becoming Old Town's missing link but the council is prepared to consider compulsory purchase orders as a last resort." He said he would like the building to remain a public facility rather than commercial enterprise but said people had to be more realistic.

"The council hasn't got the money for that and it is better to do something with it now than let it get even more rundown."

He followed up by commenting on 15 March 2002 saying.

"I'm delighted we've got as far as we have in terms of doing a deal with Mr Mackenzie for development of this area."

The new partnership needed to find a development partner to take the project forward. Countryside PLC was selected as the preferred development partner and solicitors were instructed on contracts. Countryside PLC commenced developing the details of the selected scheme, although speculatively as a contract was not in place. On the 29 November 2002 Councillor Mike Bawden is quoted saying.

"This development promised to be very good news for the continuing regeneration of Old Town.

"A lot of things are beginning to come together in Old Town."

"If we can sort out the Locarno and come up with a development that is another step down that line."

Councillor Bawden said he expected work to begin within the next 12 months.

He said: "There were two companies that came up with very similar concepts. The preferred one made a bigger offer."

These proposals with the full support of Councillors were exhibited to the public in 2003. The proposals were not supported by the public in particular the two 12 storey towers and lack of car parking. The partnership discussed the concerns raised at the exhibition and agreed a revised brief again supported by the Councillors. Countryside commenced work on the new proposal which would restrict the height to 7 storeys

allowing the clock tower built in 1840 to remain prominent. Councillor Mike Bawden again in the Advertiser says.

"I'm doing my best to make sure a scheme will come forward.

"I would be bitterly disappointed if the scheme fell by the wayside.

The two major fires of 2003 were to interrupt progress but no more than the lack of any progress on a contract. Countryside had by now speculated some £200,000 and wanted the contract in place before spending anymore. A lack of decision making and urgency at SBC was causing major delay on agreeing the contract. Progress was minimal and the legal work dragged on. Councillor Mike Bawden on the 28 July 2004 is quoted.

"Solicitors have been instructed by all parties to progress with the signing of a development agreement. It is hoped that this will be signed by the end of August 2004."

"The developers will then be able to submit a planning application based on the designs that were put on public display."

It is hoped that the Locarno, in Old Town, will eventually have a new lease of life as a housing development, complete with a restaurant and a piazza.

Councillor Bawden added: "There have been understandable delays due to the assessment of damage caused by the fire at the building.

Councillor Mike Bawden follows up 17 months later on 27 December 2005 saying.

"Legal paperwork could be signed within days. But he warned several previous attempts at a deal had failed at the 11th hour. I have my fingers crossed"

"I am hoping and praying that a deal can finally be struck between Swindon Council, Mr Mackenzie and Countryside Properties. But I can't rest easy until pen touches paper."

And on the 31 January 2006 he informs.

"He was putting his shoulder to the wheel to get the deal signed. I would hope that a deal would be done by the second half of February 2006. At the moment we are still working towards a formal agreement."

"The three parties had scheduled a meeting to discuss progress, but agreed that it was not necessary. We did not think that a meeting was needed. I take that as a positive sign that things are progressing well."

"What I can say, however, is that this council has tried its best to get this deal signed over a number of years."

A further follow up on 3 March 2006 he says.

"Following the meetings, when all the outstanding issues were discussed, it was agreed the following dates were both realistic and achievable: Agreement of documentation March 17, 2006; formal agreement March 31, 2006 and exchange of contracts April 28 2006. He was hoping and praying a deal could finally be struck. The development would add to Old Town's prestigious status."

At the end of 2006 following a management buyout of Countryside PLC the company was restructured and the South West office was to be closed. Countryside could no longer continue with the project and introduced Bach Homes Locarno who became involved early 2007. BHL were very surprised no contract had yet been agreed after 5 years and it was rumoured the SBC legal bill was £250,000. SBC Cabinet agreed BHL would replace Countryside as preferred development partner. BHL were prepared to commence detailed design work providing progress was being made on a contract. In an article on 15 June 2007 Councillor Mike Bawden and Fionuala Foley are quoted.

In the next two weeks the council is expected to sign a deal with developers Bach Homes to renovate the High Street landmark, which is owned by Gael Mackenzie.

The plans for the development are being kept secret until the legal partnership is signed.

They will then go on public display at the end of this month so that residents can see what is proposed.

Councillor Fionuala Foley (Con, Old Town & Lawn) said that she was impatient for the project to get moving.

She said: "We are as close as we have ever been to getting an agreement and we just want the partnership signed.

"The Locarno has been a thorn in the side of Old Town for years and as councillors we have worked hard to get it restored to its former glory." I have seen the artists' impressions of the proposed development and it looks great. The façades will not change apart from getting cleaned as part of the renovation."

Former Mayor and Old Town councillor Mike Bawden said "I have got my fingers crossed that the future of the site will be resolved shortly. We have been trying for three or four years to find a solution for the Locarno building and the old Town Hall."

Contracts were exchanged between SBC / GM and BHL on 11 August 2007.

Former Swindon Mayor Councillor Mike Bawden, who has championed the restoration project for five years, said he was delighted at the news.

"We have on a number of occasions thought the project was going to go ahead, but the cup has slipped from our lips. We are hoping the planning application will be submitted in the next few weeks, and then it will go to public consultation. This is the last part of Old Town that needs updating and the leisure facilities will really improve the whole area."

Council leader Roderick Bluh said: "It is a huge relief as it has been quite an effort getting to this point. This will give the whole of Old Town a lift and will show that Swindon is on the move"

BHL understood the importance of the scheme having the support of Councillors. Every design ever produced for the Locarno has been presented to the Leader, Councillors, and officers. BHL have never proceeded unless this group were in full agreement.

A public exhibition was held on 18 August 2007 which received substantial (93%) public support. The Advertiser reports the following day.

OLD Town residents say they are generally impressed by plans for the Locarno

Former plans for the neglected building were rejected in 2003, and the developers have taken note reducing the number of planned apartments from 185 to 125.

Former plans also contained a scheme to build two twin towers, which were shelved because they would overshadow the clock tower.

Chairman of Pipers Area Residents' Association Gareth Cole said: "It is a much better development than in 2003 in terms of its impact on the landscape.

"I'm really looking forward to having the Locarno and Old Town Hall refurbished.

"The whole concept looks stunning."

Councillor Fionuala Foley (Con, Old Town and Lawn) said: "As councillors we have been fighting to get the register office here and what a lovely backdrop for pictures."

Former Swindon Mayor Councillor Mike Bawden (Con, Old Town and Lawn), who has championed the restoration project for five years said: "We have constantly tried to save some very important buildings in Old Town which are of importance in borough terms as well.

"The density of this site has been reduced following the 2003 consultation.

"The three ward councillors are recommending this revised scheme following consultation."

In September 2007 the first planning application was submitted....more than 6 years after SBC became involved. This application proposed 129 private apartments with an underground car park, a restaurant in the Old Town Hall, coffee shop in the clock tower, bar restaurant in the Locarno a new public square and Registrar office.

Councillor Mike Bawden is quoted in the Advertiser on 29 November 2007.

This has been a very, very difficult journey," said Councillor Mike Bawden (Con, Old Town and Lawns).

"Along the way there have been moments of euphoria and of total despair as well as a number of false dawns.

"Now we have a situation where the necessary legal documents are in place and the developer has deposited its plans with the council.

"This is a fantastic moment and one of the targets that I set myself when I was leader of the council."

Gareth Cole, chairman of the Pipers' Area Residents' Association, said: "This looks fantastic and stunning.

"This development is desperately needed because we have a history here of old properties falling into decay, being knocked down and turned into flats.

"What this scheme does is taking an old site and uses it to its full potential to provide real benefit to Old Town."

In February 2008 the application was considered by the planning committee, the officers were recommending approval and the committee agreed unanimously. The officers were instructed to issue the

planning permission on the completion of a section 106 agreement. This agreement required BHL to pay £50,000 for the creation of 30 number “on street” parking spaces in Old Town. Councillor Mike Bawden appears on the front page of the Swindon Advertiser the following day claiming.

“He told the committee the development would be a great opportunity for Old Town and would restore civic pride.”

It became evident very early in 2008 there were serious banking problems. BHL considered the introduction of McCarthy & Stone (MS) on the South building would help secure project funding. BHL discussed this with SBC and GM and an amended planning application incorporating MS was unanimously approved by committee in April 2008. BHL had secured bank funding for the project with RBS. The section 106 agreement despite being a very simple and standard document was not completed until September 2008. The planning approval was then issued, by which time the banking crisis was upon us, the housing market had collapsed, and the project funding withdrawn. It was now apparent the commencement of the approved scheme would be delayed unless a solution could be found.

In May 2009 BHL met with the Leader, Councillors and officers. The meeting discussed a number of possible options which might allow a start on site earlier. Reducing the land purchase terms as a means of improving the existing project viability was rejected by SBC. What was agreed unanimously was.

1. The buildings shall be no higher than those approved.
2. The buildings massing shall not be significantly increased.
3. Alternative use of the buildings such as a hotel would be acceptable.
4. The Registrar office was no longer required.

BHL commenced work on finding a commercial solution within the agreed constraints which might allow a start on site ahead of a purely residential solution. In the months which followed BHL were to.

1. Commissioned a report on the commercial viability of a hotel which proved very positive.
2. Secured commitment from Sheraton, Ramada and the Accor hotel groups for use of their brand.
3. Completed the draft design of the new scheme and assessed the new project viability

These proposals were presented to the planning officers on 19 October 2009. Observations of the officers noted and plans amended which were then presented on 11 February 2010 to the Leader, Councillors and officers. The principle of introducing a hotel was supported as was the general design. BHL were encouraged to move the project forward which they did in conjunction with the planning officers.

On the 28 May 2010 the planning application was ready to submit and a meeting arranged again with the Leader, Councillors and officers. The new proposal would see a 117 bedroom (Sheraton, Ramada or Accor) hotel, Town Hall restaurant, Clock tower coffee shop, 2 bar / restaurants, new public square, 84 private apartments and underground parking for 150 cars. The scheme was unanimously supported by those attending. At this meeting BHL raised a number of concerns where SBC could help.

1. BHL requested SBC to moderate the planning application fee of £40,000 given a substantial part of the scheme remained identical to the approved scheme. The Leader later confirmed this was not possible.
2. BHL also asked if the public realm work could be undertaken by Forward Swindon which would assist the project viability.....we are still waiting on an answer.

3. BHL stated little progress had been made on agreeing the changes to the existing contract necessary following SBC request to remove the Registrar office. The officers were instructed at the meeting to make haste but 10 months on have not made any progress.
4. BHL requested the contract deadline be extended to allow sufficient time for the planning process to be completed including a Judicial Review period and time necessary to complete a new section 106. The Councillors agreed this was entirely reasonable and instructed the property department accordingly but again 10 months on we are still waiting for SBC action.

Proceeding once again in good faith and trust BHL duly paid the £40,000 application fee and submitted the planning application in June 2010. The total cost of the new planning application was now expected to be £170,000 in total. The following day Councillor Mike Bawden once again featured in the Advertiser this time saying.

“The building had been left empty and derelict for too long and seeing it redeveloped would be a welcome boost to the Old Town area. At the end of the day, that building is one of the most important in the borough and the borough should be doing everything it possibly can to return the building to use, because as it stands at present it’s just gradually rotting and falling to pieces.”

“We were concerned about the traffic when the original planning permission was granted and we are still concerned that traffic will be a problem, or a challenge.”

“But it’s a matter of whether you think the restoration of the Locarno building and the regeneration of the Old Town area is worth that particular problem.”

“We all want that site redeveloped.”

He said a recent survey carried out by residents living in a neighbouring block of flats at Henrietta Court found the vast majority would rather see the site redeveloped and put up with the traffic problems than not have anything happen at all and the site to remain in its current state.

He added: “A development like this could be a major emphasis to the Old Town economy and that’s why it should be so desirable to the residents that this is sorted out in the present economic climate.”

A public exhibition was held in June 2010 where over 150 members of the public attended. Once again the proposals received overwhelming public support. BHL tried very hard to get some progress with SBC property team as our contract deadline (11 August 2010) was fast approaching. It was apparent by the end of July 2010 an amended contract just would not happen before the deadline. The company had the right to purchase the site under the existing contract and duly informed SBC it had no choice but to exercise and purchase. SBC assured BHL this was not necessary and in an exchange of correspondence an agreement was reached where SBC would not terminate the contract before the planning application process was completed and agreed to conclude the revised contract before the end of September.

In September 2010 comment from the planning officers was received. A series of meetings were held and amendments made to the proposal which satisfied the Conservation and the Urban Design officer’s detailed comments. We were requested to undertake another structural survey on the building whilst not understanding what this achieved; clearly the building was not getting better! Nevertheless it was commissioned and confirmed only minor changes since the last report in 2007. Considerable discussions and

eventually an agreement on the best way to service the hotel and commercial units were secured in November 2010. The application was now ready to be taken to committee.

By early December there had been no progress on amending the contract or confirmation on when the application would go to committee. A meeting was held in the week before Xmas with Councillors and officers. The property team were once again requested to make some progress. The planners instructed to get the application to the February meeting. Councillor Mike Bawden asked if we remove the South building and the hotel had a surface car park what would be the impact on the scheme viability. BHL confirmed this had previously been considered but agreed to review the financial consequence again. BHL confirmed a few days later this would have a negative impact of £1.7 million on the project viability. BHL confirmed there was nothing wrong with the existing approval and this could be built but the hotel proposal offered a quicker development start. The meeting understood and agreed.

Sometime in January the Old Town Councillors received some public criticism on the Places for People development on Pipers Way, in particular the signature building fronting Marlborough Road. BHL remember attending a presentation to the Leader and Councillors in 2007 where they followed Places for People. There were a number of display boards still present and our Councillors discussed the scheme with clear pride in what they had secured.

Completely out of the blue 8 days before the committee meeting BHL were notified the application is being recommended for refusal. There is nothing in any correspondence in the previous 7 months which suggests anything other than support. A BHL consultant spoke to Councillor Mike Bawden who stated *“don't waste your time speaking at the committee meeting it is a done deal, there is nothing you can do”*. A strange comment given the committee should be independent and assess projects against adopted policy, but then we knew this Councillor historically always got his way. BHL immediately requested a meeting with the Leader Rod Bluh and any other Councillors / officers he wished to join a meeting to discuss the situation.....we are still waiting for a response and meeting.

At the planning meeting on 8 February the done deal, was done, and the £170,000 fully supported application was refused. At this meeting the planning officers were asked to develop another design brief for the site and bring to the committee in September 2011. BHL attended the meeting and thought this strange given the existing planning approved scheme could start in 18 months and the right of appeal on the hotel refusal. The following morning BHL notified SBC it will be exercising its right to appeal. In the afternoon a hand delivered letter was received terminating the contract with BHL. Everything was now clear; Councillor Mike Bawden was set on his new mission, kill the hotel application and get rid of the development partner so the approved planning permission will fall in September 2011. He will have a new design brief for 3 storey buildings in September 2011 and 10 years on he can start the same process again. Councillor Mike Bawden once again features in the Advertiser stating.

“This is a very difficult position to find ourselves in.

“The Locarno is one of the most important buildings in the borough and, one would argue, one of the most important buildings in the Old Town area.

“There is this need to do something about the Locarno. The Locarno is going to sit there until we find a solution for it.

“The community is split 50:50 on those who believe that to get the Locarno restored that you should grant permission.

“There are equally a number of people who say you should not. It is a difficult balancing act.

“We do as ward councillors reluctantly, with considerable soul searching, agree with the officers’ recommendations.”

Councillor Mike Bawden forgot to mention

1. There is a development solution it was approved by committee in September 2008. This purely residential scheme could start as the economy and housing market improve in the next two years.
2. If he had not committed such a U turn and stood by his previous commitment to the hotel scheme a start on site would have been earlier.
3. BHL had offered to undertake some protection of the building fabric if we needed to wait for the economy to improve.
4. Terminating the contract with BHL has left SBC with a rumoured £250,000 legal bill and litigation.
5. He knows a scheme of lesser proportions than the approved scheme will be a less viable scheme. His U turn if allowed will cost the Swindon tax payer at least £850,000 and probably much more.
6. It took him 6 years to get someone to make a planning application last time and might take the same time again.
7. There were only 22 letter of objection on the hotel planning application which he constitutes as 50% of the people of Swindon objecting to the proposal.

Councillor Mike Bawden set out on his new vision for the Locarno. He was so obsessed with his own self-importance he forgot SBC were in partnership with BHL and GM. In his mind BHL no longer mattered they would be dispensed with so his new vision of a three storey development could be pursued. GM the other land owner and what he might think about his plans was really not important as GM will surely do as he is told. This he demonstrates with comments in the Advertiser on 11 February 2011.

“We could do to him(Gael Mackenzie) what we did to Mr Singh (owner of the Mechanics’ Institute).

“Under planning law he has a responsibility for the condition of that building, and the borough is responsible for making sure it’s protected because it’s a listed building.”

He said they are not at that stage yet, but added that a meeting is needed with Mr Mackenzie to “take stock of where we are.”

What Councillor Mike Bawden forgot to mention

1. Gael Mackenzie (“Him”) has not been consulted to this date on his new vision and remains supportive of developing the planning approved scheme or the hotel scheme if successfully appealed. The last thing GM seeks is starting the process once again.
2. Gael Mackenzie cannot be held responsible for any further dilapidations of the Locarno structure. It was not him who had a U turn or walked away from the partnership.

BHL have engaged Clarke Willmott as solicitor to commence proceedings against SBC and if possible this Councillor. BHL do not consider SBC had the contractual right to terminate the contract which will be challenged. BHL consider they have been grossly misled by SBC and Councillor Mike Bawden. After all his

vision shared with Countryside in 2002 was a 12 storey building. The vision he shared with BHL in 2006 was a 7 storey building. His latest vision in 2011 is now a 3 storey building, any development company now getting involved should be careful about what will be next? BHL have spent £577,000 on trying to bring the Locarno regeneration forward. The company has always acted in utmost good faith and committed significant resources only to find the goal posts moved. BHL consider a claim for damages will be significantly more than £1million.

In the meantime GM and BHL remain in contract and have agreed to the following course of joint action.

1. Appeal the hotel refusal which we have complete confidence will secure planning approval.
2. Renewal of the current approved planning permission. If refused then this also will be appealed with confidence.
3. Discharge prestart planning conditions if necessary and make a material start on site. This will preserve the approved planning in perpetuity.
4. Invite SBC to re-engage with the partnership they once thought so essential.

Should SBC not re-engage with the established partnership and the building falls down. It will not be Gael Mackenzie to blame but a nightmare created one day in January 2011 by our Councillors. There is a time in life when people have to recognise they are no longer capable of what they once might have been and best to allow others the opportunity to lead. We consider this time has arrived for Councillor Mike Bawden and perhaps a few others if Swindon really is to be Forward Swindon.

Bach Homes (Locarno) Limited

Ten years of SBC involvement.....The Locarno (March 2011)

