

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE
25 February 2014

Agenda Item	5.4
Report No	PLS/013/14

08/00692/FUL: Archial (formerly Davis Duncan) Architects Ltd
Torvean Caravan Park, Glenurquhart Road, Inverness, Highland, IV3 8JL

Report by Area Planning Manager – South

SUMMARY

Description: Proposed residential development at Torvean Caravan Park,
Glenurquhart Road, Inverness

Recommendation: REFUSE

Ward: 14: Inverness West

Development category: Major

Pre-determination hearing: N/A

Reason referred to Committee: Legacy Case – Section 75 agreement not concluded.

1. PROPOSED DEVELOPMENT

- 1.1 The proposal is to construct six 3, 4 and 5 storey blocks of flats accommodating 81 units.

2. SITE DESCRIPTION

- 2.1 The site is bounded to the north by Torvean Golf Course, by the Loch Ness House Hotel to the west, the Caledonian Canal to the east and the A82 to the south. The former petrol filling station lies to the front of the site with the caravan park to the rear.

3. PLANNING HISTORY

- 3.1 08/00692/FUL – 12 May 2009 deferred for site visit, then approved by the Planning Applications Committee on 9 June 2009 subject to a Section 75 agreement being concluded to cover the delivery of the required affordable housing.

4. PLANNING CONSIDERATION

- 4.1 Since the application was originally granted by the Planning Applications Committee in June 2009, many discussions and reminders pertaining to concluding the S75 agreement have taken place, culminating in correspondence dated 18 September 2013 advising that where there are outstanding legal agreements and these are not concluded within 4 months, then the application would be brought back to Committee with a recommendation for refusal.

In this regard, Members may recall that at the Planning, Environment and Development Committee on 14 August, 2013 it was noted that the Planning Service was seeking to reduce the average times taken to determine major developments, particularly where there is an associated legal agreement. The Council stated that it intended to work with applicants to ensure that legal agreements are concluded within 4 months following a minding to grant decision. This includes “legacy” cases such as this one.

- 4.2 In this instance, in the absence of a completed S75 agreement, the application does not meet the Council’s approved affordable housing policy.

The original Committee Report is attached to this report for Members’ reference.

5. CONCLUSION

- 5.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations. It is disappointing that the applicant has determined not to pursue the completion of the S75 agreement despite repeated requests for the matter to be resolved. Accordingly the application is now recommended for refusal of planning permission.

6. RECOMMENDATION

Action required before decision issued

Notification to Scottish Ministers	N
Referral to Ward Members	N
Notification to Historic Scotland	N
Conclusion of Planning Obligation	N
Revocation of previous permission	N

Subject to the above, it is recommended the application be **REFUSED** for the following reasons:

1. The proposal, if approved, would be contrary to Policy 32 (Affordable Housing) of the Highland-wide Local Development Plan as the applicant has failed to conclude a S75 Legal Agreement which is required in order to secure an appropriate level of affordable housing in this development.

Signature: Allan J Todd

Designation: Area Planning Manager - South

Author: Elaine Watt

Background Papers: Documents referred to in report and in case file.

THE HIGHLAND COUNCIL

**INVERNESS, NAIRN, BADENOCH & STRATHSPEY
PLANNING APPLICATIONS COMMITTEE – 12 MAY 2009**

Agenda Item	
Report No	

08/00692/FULIN

**Proposed residential development at Torvean Caravan Park, Glenurquhart Road,
Inverness**

Report by Area Planning and Building Standards Manager

SUMMARY

This is a planning application to replace the Torvean Caravan Park and adjoining former petrol filling station with 81 flats spread across 6 blocks and incorporating affordable housing, amenity open space and car parking. The flats will be made up of 1, 2 and 3 bedrooms. Two letters of objections were received to the application which is reported to Committee given objections from the Community Council and some other Consultees.

Applicant: Archial (formerly Davis Duncan) Architects, 5 Longman Road, Inverness

Recommendation to GRANT planning permission.

Ward: 14 – Inverness West

1. PROPOSAL

1.1 The proposal is to construct six 3, 4 and 5 storey blocks of flats accommodating 81 units. One 3 storey block will front on to Glenurquhart Road. Two 5 storey blocks and one 4 storey block will overlook the Caledonian Canal and the gable ends of the remaining two blocks will face the Loch Ness House Hotel to the west. Amenity ground and a play area are located in the centre of the application site. Access is taken from the trunk road utilising the existing access into the caravan park and closing up the access into the petrol filling station.

2. PUBLIC PARTICIPATION

2.1 Two letters of objection were received in connection with this application. They raised the following issues:

- Design of the buildings;
- Over-intensive use of the site;
- Scale of the buildings;
- Amenity.

2.2 Copies of all letters of representation have been placed in the Members' Lounge for inspection prior to the Committee meeting. The originals are available for inspection in the case file.

3. CONSULTATIONS

- 3.1 **Community Council** – strongly object on grounds of unsuitable access, over-development of the site, building out of context with area and traffic congestion.
- 3.2 **TECS (Roads)** – unable to recommend approval unless conditions are included to address concerns (now resolved).
- 3.3 **TECS (Contaminated Land)** – no objection subject to a condition being included to deal with the contamination around the former petrol filling station.
- 3.4 **Scottish Water** – no objection
- 3.5 **Historic Scotland** – recommend refusal on the grounds of the impact on the Scheduled Ancient Monument of the Caledonian Canal and the designed landscape of Tomnahurich Cemetery.
- 3.6 **Transport Scotland** – no objections (objections resolved)
- 3.7 **Housing Manager** – no objections providing 25% affordable housing policy applied.

4. POLICY

- 4.1 The following policies are relevant to the assessment of the proposal:

Highland Structure Plan, 2001

- G2 – Design for Sustainability

Inverness Local Plan, March 2006

- BP3 – Trunk Road buffer

- 4.2 The proposal also requires to be assessed against the following relevant Scottish Planning Policies (SPP), NPPG's and Planning Advice Notes (PAN)
 - SPP1 – The Planning System
 - SPP3 – Planning for Housing
 - PAN 38 – Housing Land
 - PAN 40 – Development Control

5. PLANNING APPRAISAL

- 5.1 **Determining issues** - Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.2 The proposal requires to be assessed against both the appropriate policies of

the Development Plan, supplementary guidance and National Planning Policy and Guidelines as referred to in the Policy section. In particular, the proposal requires detailed assessment of the following fundamental issues:

- whether the principle of development is appropriate in terms of policy
- whether the layout of development is appropriate
- the impact on the amenity of the area and residents
- other material issues raised by the objectors

5.3 **Policy**

This site does not have a specific allocation within the adopted Inverness Local Plan (March 2006). It is covered by Background Policy 3 which is in relation to the trunk road buffer. However, as this is within the city boundary and the 30mph limits, it is considered that the reasons for setting development back from the trunk road to avoid noise nuisance, do not apply.

SPP3: Planning for Homes

SPP3 is a key document in considering this application. “The selection of appropriate sites and the amount of land needed to meet the housing requirement should in principle consider the reuse of existing land and buildings before development on greenfield sites...planning authorities should promote the efficient use of land and buildings. In principle this means directing the majority of new development towards sites within existing settlements to make effective use of existing infrastructure and service capacity, and reduce energy consumption, while ensuring the creation of quality residential environments...through good design it is possible to achieve a variety of forms of high-density living environments without overcrowding or loss of amenity.”

The Scottish Government have clearly set out their priorities to re-use brownfield sites, including the remediation and use of contaminated sites rather than consistently looking for greenfield sites to meet housing requirements. Torvean Caravan Park site is one example of such a site in Inverness. The petrol filling station has been lying vacant at this key gateway location for some considerable time now and would benefit from the proposal.

The design of the site sets out to maximise the potential of this brownfield site, in accordance with SPP3 to ensure “effective use of land” without overcrowding, congestion or loss of residential amenity. The site is within easy access of the city centre (by public transport, vehicle, cycle and foot) and accessibility is likely to improve on completion of the Trunk Road Link.

5.4 **Over-intensive use of the site, scale of the buildings and context**

As identified in SPP3, it is possible to achieve high-density living environments without over-crowding or loss of amenity. The Loch Ness House Hotel neighbouring the site recently received planning permission for the redevelopment of the hotel and a significant four storey rear extension. The two aspects of this permission – the redevelopment and the four storey extension – give credence to this current proposal to redevelop the caravan park and petrol filling station with higher density, three, four and five storey

blocks of flats.

5.5 Unsuitable access and traffic congestion

The access elements of this application have been discussed, agreed and adjusted as necessary with Transport Scotland in relation to the A82 trunk road. It is considered that the plans before the Committee are therefore acceptable.

5.6 Impact on Scheduled Ancient Monument and Design Landscape

Historic Scotland has raised concerns regarding the impact of this development on the Scheduled Ancient Monument (SAM) of the Caledonian Canal and the Designed Landscape of Tomnahurich Cemetery. It is accepted that this development will have an impact; however it is a matter for the judgement of the Planning Authority to determine the significance of the impact.

The site sits within a mature landscape of trees that mask the site from many approaches. A photomontage produced by the applicant illustrates how little of the site can be viewed from a key point at the junction of General Booth Road and the A82. In terms of the designed landscape of the Cemetery, it is noted that Tomnahurich Hill is heavily wooded, to the extent that there are few points from which there is any view at all and the only view of part of the development site is a short section of driveway round the south west foot of the hill.

In terms of the canal, the primary view of the application site will be from the towpath. The applicant has designed the site to mimic a wharf-side development along the canal, with footpath access on to the towpath and design features of interest on the building frontages to the canal. Car parking is kept to the centre of the site and away from the public view generally

6. CONCLUSION

- 6.1 This is a sensitive site that has required much consideration to make a judgement in weighing the benefits of developing a key city brownfield site against the impact on the SAM and the designed landscape. On balance, it is considered that developing the site and regenerating this part of the city is in line with Scottish Government priorities and will be a welcome investment in the city especially in the current economic climate.

RECOMMENDATION

Grant planning permission subject to prior conclusion of a Section 75 Agreement to cover delivery of the required affordable housing and the following conditions:

1. Except as otherwise provided by the terms of this permission, the developer shall construct and operate the development in accordance with the plans and supporting information submitted with the application and docketed as relative hereto with no deviation therefrom unless otherwise approved in writing by the Planning Authority.

Reason: In order to clarify the terms of the permission hereby granted and to ensure that the development is implemented as approved.

2. No construction work shall commence on site until evidence is exhibited to the Planning Authority that agreement has been reached by the applicant with Scottish Water for the provision of a water scheme to serve this development.

Reason: required in the interests of public health and on the basis of current advice from Scottish Water.

3. The flats for which planning permission is hereby approved shall not be occupied unless the surface water associated with the development including areas of hardstanding and the driveway, is installed and completed to the satisfaction of the Planning Authority and in accordance with SEPA's guidelines on SUDS. There shall be no COMMENCEMENT of this development until such details are submitted to and approved in writing by the Planning Authority.

Reason: In order to ensure that the site is properly and adequately drained.

4. The flats shall not be occupied unless the method by which foul drainage is to be provided on site has been implemented and completed to the satisfaction of the Planning Authority.

Reason: In the interests of public health.

5. Construction work associated with the development hereby approved, for which noise is audible at the boundary of the site shall only be carried out between 08:00 and 19:00 Monday to Friday, between 08:00 and 13:00 on Saturdays and at no time on a Sunday or Public Holidays.

Reason: To minimise the risk of noise nuisance given the close proximity of the existing houses.

6. Delivery of construction materials to the site shall be between the hours of 08:00–18:00 Monday to Friday, 08:00–13:00 on Saturdays and at no time on Sundays or Public Holidays.

Reason: To minimise the risk of noise nuisance given the close proximity of the existing houses.

7. Prior to the commencement of development, a fully detailed scheme of landscaping for the site, including a scheme of maintenance, shall be submitted to and require the approval in writing of the Planning Authority. All planting thereby approved shall be undertaken in the first planting season following commencement of the development and shall thereafter be maintained in accordance with the approved scheme of maintenance. Any plants which, within a period of five years from the commencement of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the immediately following planting season with others of a similar size and species.

Reason: In the interests of amenity and in order to ensure that the development is adequately screened.

8. Permission is hereby granted on the basis that the development of the site shall include at least 25% of the housing units being affordable housing within the terms of the Planning Authority's Development Plan Policy Guideline on Affordable Housing and to be agreed with the Council's Housing Development Team. For the purposes of this permission, affordable housing shall have the meaning assigned to it by the Affordable Housing Policy - that is, plots for the provision of or dwellings available in perpetuity for low-cost accommodation for local persons.

Reason: In order to meet the objectives of the Council's policy with respect to the provision of low-cost accommodation for local persons.

9. Prior to the commencement of development, a scheme that deals with potential contamination on the site shall be submitted to and require the approval in writing of the Planning Authority and shall thereafter be implemented in accordance with this scheme. For the avoidance of doubt, no construction work shall be carried out until such a scheme has written approval of the Council. The scheme should include:

- a) The nature, extent and type of contamination on site, identification of pollutant linkages and assessment of risk (i.e. Contaminated Land Risk Assessment and Remediation Plan). The scope and method of this assessment to be agreed IN ADVANCE with the Council, and undertaken in accordance with PAN 33 (2000) and BS10175:2001.
- b) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for the uses proposed (this plan shall include a method statement, programme of works, and proposed verification plan).
- c) Submission of a Validation Report (this should include remedial action be required) by the competent person employed by the developer who will validate and verify the completion of works to a satisfactory standard as agreed with the Council.

Written confirmation from the Council that the scheme has been implemented, completed and if appropriate, monitoring measurements are satisfactorily in place, shall be required prior to any development hereby approved commencing.

Reason: In order to ensure the site is free from potential contamination.

10. Prior to commencement of development the internal roads and parking areas shall be

designed and constructed to a generally adoptable standard satisfying the requirements of the Council's Road Guidelines for New Developments.

Reason: In the interests of road traffic safety.

11. Prior to commencement of development, a suitable management and maintenance scheme for the roads, footpaths, parking areas, play areas and hard or soft landscaped areas that are not to be adopted by the Council shall be submitted to and require the approval in writing of the Planning Authority. For the avoidance of doubt only the main spine road up to and including the turning head opposite Block B will be considered for adoption.

Reason: In the interests of road traffic safety.

12. Prior to commencement of development and notwithstanding the requirements of the Trunk Road's Authority, the applicant shall liaise with the Council's Public Transport Officer regarding the provision of the suitable bus stops close to the site including, for east bound services, the provision of a bus bay with good quality shelter and real time information display screen.

Reason: To ensure that adequate public transport facilities will be available.

13. Prior to occupation of the first flat, suitable pedestrian links shall be provided to connect the development to the adjoining canal towpath.

Reason: To ensure pedestrian links are maintained.

14. Prior to occupation of the first flat, secure, covered ground level cycle shelters shall be provided in accordance with the requirements of the Council's Guidelines.

Reason: In the interests of road safety.

15. Prior to the commencement of development, the developer must undertake all measures required to ensure the site is maintained free from the effects of a 1 in 200 years flood event.

Reason: In order to ensure that the site is protected from flood risk.

16. Prior to occupation of the first flat, a scheme indicating appropriate locations throughout the development for suitable bin storage/collection points shall be submitted to and require the approval in writing of the Planning Authority. The approved details shall thereafter be implemented prior to occupation of the first flat.

Reason: In the interests of road traffic safety.

17. Prior to the commencement of development, details of the lighting system designed for the development site shall be submitted to and require the approval in writing of the Planning Authority in consultation with the Roads Authority in order to limit urban sky glow and light spillage onto surrounding areas. The approved details shall thereafter be implemented prior to any part of the development being brought into use.

Reason: In the interests of amenity and in order to avoid light pollution.

18. Prior to commencement of any works on site, a visibility splay shall be provided and maintained by the applicant on each side of the proposed access to the satisfaction of the Planning Authority such that there is no obstruction to visibility from a driver's eye height of 1.05m-2.0m, positioned at set-back distance (X) on the proposed access, to an object height of 0.26m-1.05m within the triangular areas defined below:
- a) The set back distance, or X distance, shall be a line 4.5 metres long measured along the centreline of the access road from the nearest edge of the trunk road carriageway.
 - b) The Y distance shall be a line 90 metres long measured along the nearside edge of the trunk road carriageway from the centreline of the proposed access road in both directions.
 - c) Two straight lines connecting the terminations of the above lines.

Reason: To minimise interference with the safety and free flow of the traffic on the Trunk Road and to ensure that drivers of vehicles leaving the site are enabled to see and be seen by vehicles on the trunk road carriageway and join the traffic stream safely.

19. There shall be no drainage connections to the trunk road drainage system.

Reason: To ensure the efficiency of the existing drainage network is not affected.

20. Prior to commencement of any works on site, the existing junction shall be upgraded by the applicant to a standard as described in the Department of Transport Advice Note TA 41/95 (Vehicular Access to all-Purpose Trunk Roads)(as amended in Scotland) complying with Layout 3 (*the layout will be similar to layout 8*). The junction shall be upgraded in accordance with details that shall be submitted and approved by the Planning Authority, after consultation with the Roads Authority, before any part of the development is commenced. 2.0 metre wide footways shall be provided to connect to the existing footway network.

Reason: To ensure that the standard of access complies with the current standards and that the safety of the traffic on the trunk road is not diminished and to ensure that the standard of access layout footway complies with the current standards and that the safety of the traffic on the trunk road is not diminished.

21. A fence/barrier of a type to be agreed with the Planning Authority in consultation with the Roads Authority shall be provided and maintained by the developer or subsequent owner of the land along the boundary of the site with the trunk road.

Reason: To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.

22. Redundant footway crossovers adjacent to the boundary of the site and Trunk Road should be reinstated to footway.

Reason: To ensure that the standard of access layout footway complies with the current standards and that the safety of the traffic on the trunk road is not diminished.

NB: *Road Construction Consent shall be required in respect of all new and upgraded road related construction intended for adoption by the Council.*

Signature:

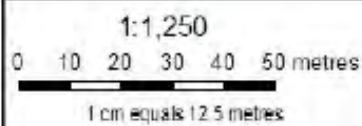
Designation: Area Planning and Building Standards Manager

Author: Elaine Watt. Planner

Background Papers: Application file 08/00692/FULIN



08/00692/FULIN
Torvean Caravan Park
Glenurquhart Road
Inverness



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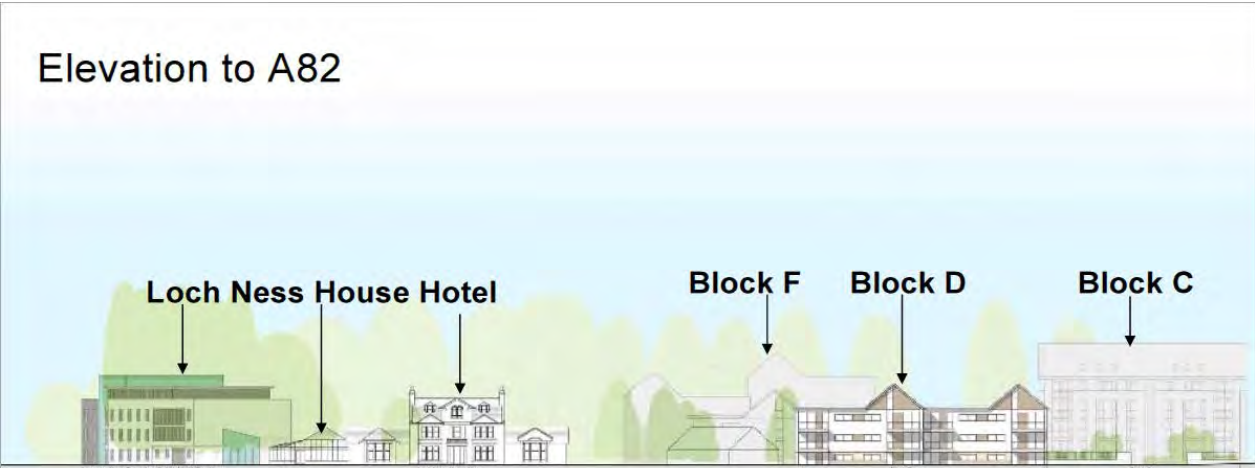
The Highland Council
Comhairle na Gàidhealtachd

Planning & Development Service

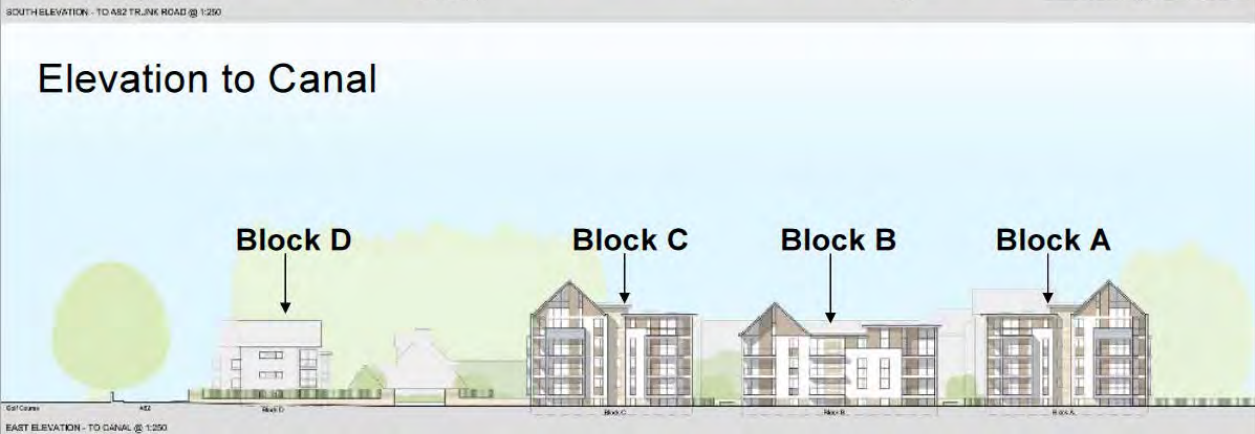
Site Plan

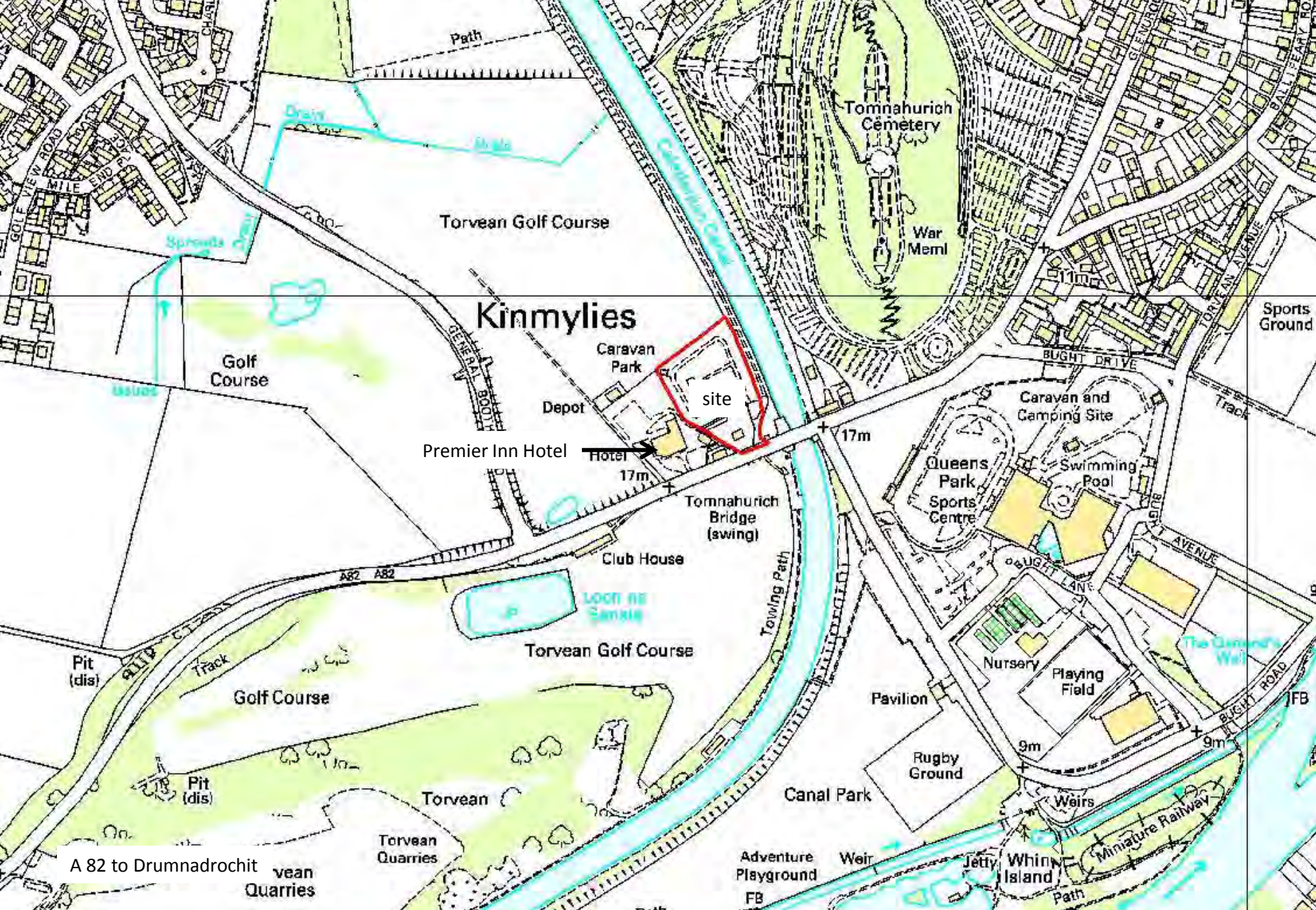


Elevation to A82



Elevation to Canal





Location Map