

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 7 MARCH 2003

**03/0092/FL: PROPOSED RESIDENTIAL DEVELOPMENT AT MALCOLMS YARD,
CROSSHOUSE ROAD, KILMAURS BY JIM SCOTT HOMES**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 It is proposed to develop the site for 10 detached, 3 bedroom bungalows which will be accessed through the existing residential estate at Towerhill, off Braehead Terrace. The proposed new access road is located through the area of open space at the south east corner of the site. The existing path through this area of open space linking Braehead Terrace to Catherine Place will remain, as will the trees and the majority of the grass. Each house is provided with 2 parking spaces with an additional 3 visitor parking spaces located within the site. The proposed new road is to be surfaced to adoptable standards and will be for shared pedestrian/vehicle use.

2. RECOMMENDATION

2.1 **It is recommended that the application be approved, subject to the conditions listed on the attached sheet.**

3. CONCLUSIONS

3.1 As is indicated in Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As indicated in Section 6 of the report, there are material considerations relevant to this application which are supportive of the application.

3.2 It is considered that the objections relating to traffic, access, amenity, environment and local infrastructure have been addressed in Section 4 and are not of sufficient weight as to merit refusal of the application.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee as that would not represent a significant breach of Council policy.

Alan Neish
Head of Planning and Building Control

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation because it is a larger application of area significance and is subject to objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The site extends to 0.61 ha (with 0.48 of the site being developed for housing) and is primarily a haulage contractors yard with an area of open space located to the south east of the site. There are various buildings on site including a garage/workshop which are accessed from Crosshouse Road. The site is bounded by the rear gardens of residential properties on all sides.

2.2 **Proposed Development:** It is proposed to develop the site for 10 detached, 3 bedroom bungalows which will be accessed through the existing residential estate at Towerhill, off Braehead Terrace. The proposed new access road is located through the area of open space at the south east corner of the site. The existing path through this area of open space linking Braehead Terrace to Catherine Place will remain, as will the trees and the majority of the grass. Each house is provided with 2 parking spaces with an additional 3 visitor parking spaces located within the site. The proposed new road is to be surfaced to adoptable standards and will be for shared pedestrian/vehicle use.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Scottish Water have confirmed that there is an existing public water main located in the street adjacent to the site which may be suitable to provide a supply to the proposed development. Details of the highest water fitting related to Ordnance Datum and the proposed demands must be forwarded to Scottish Water in order that hydraulic testing can be carried out.

Wayleave permission will be required from the relevant owner of adjoining land.

Noted. The comments provided by Scottish Water can be attached to any grant of planning permission.

3.2 West of Scotland Archaeology Service have stated that the site is within the defined area of archaeological potential associated with the historic settlement of Kilmaurs. The actual extent of archaeological interest at Kilmaurs is not known as there have been few archaeological interventions in the town until recently. This large scale proposal could disturb, damage or destroy archaeological deposits of possible medieval date. It is recommended that there should be archaeological evaluation and therefore a negative suspensive archaeological condition should be attached to any consent granted.

Noted. The wording of such a condition has been proposed by West of Scotland Archaeology Service and could be attached to any grant of planning permission.

3.3 Scottish Environment Protection Agency (SEPA) have confirmed that there is no objection to this proposal on the understanding that the foul drainage is connected to the public sewer. The applicant should obtain written assurance from Scottish Water that additional flow will not cause or contribute to the premature operation of consented storm overflows.

In addition, it is requested that a condition be included in any grant of planning permission requiring the applicant to treat surface water from the site in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland, which was published by CIRIA in March 2000.

It is possible that previous uses at the site as a former haulage yard may have resulted in land contamination and therefore it is expected that a risk assessment be undertaken.

Noted. Appropriate conditions and notes relating to SUDS and possible contamination can be attached to any grant of planning permission.

3.4 East Ayrshire Council's Environmental Health and Waste Management Department have also advised on the potential of this site for soil and groundwater contamination based on the sites previous use as a transport/haulage yard.

As noted in response to para 3.3 above, appropriate conditions relating to contamination risk assessment can be attached to any grant of planning permission.

3.5 The Coal Authority have no adverse comments on the proposal.

Noted.

3.6 Kilmaurs Community Council have not responded at the time of writing.

Noted.

3.7 East Ayrshire Council's Roads and Transportation Division have confirmed that the additional traffic generated by the proposed development will require to be off set by the installation of traffic calming measures on Towerhill Avenue. The traffic calming feature which the Roads Division considers appropriate is pairs of rubber speed cushions located on Towerhill Avenue. These features should be installed prior to occupation of the dwellings. It should be noted that the installation of speed cushions is subject to The Road Humps (Scotland) Regulations 1990, which requires consultation with interested parties before installation can take place. The Roads Division would make this consultation process a condition of the road construction consent.

Noted. Relevant conditions regarding the Roads Division's requirements can be attached to any grant of planning permission.

3.8 East Ayrshire's Department of Community Services have stated following a site inspection that the only trees worthy of retaining on site are the holly trees in Plot 2. These are 'a good age' and should be incorporated into the new site.

Noted. However, the location of the house on Plot 2 precludes the retention of these trees. It is considered that due to the fact that the entire site has been unkempt and the trees have not been maintained it would be preferable to encourage new compensatory planting within the site. A condition regarding landscaping of the site can be attached to any grant of planning permission.

4. REPRESENTATIONS

8 no. letter of objections have been received with 10 no. signatories.

Privacy/Amenity

4.1 The proposed houses would overlook the gardens of the properties in Crosshouse Road and Townend, resulting in loss of privacy. Most people stay in a village rather than a town because of the open spaces around them. The proposed development would start to erode the village as a place of openness.

The proposed houses are all single storey and therefore it is considered that, with appropriate boundary treatment there will be no adverse impact on the existing houses. In addition, 2 of the 3 plots along the boundary with the rear gardens of Crosshouse Road only have an en-suite and bathroom window on this elevation. Furthermore, the third plot along this boundary with a bedroom and kitchen to the rear, is located opposite the existing access point and not overlooking private gardens. It is considered that the proposed use of the land for residential purposes is preferable in terms of amenity to the existing/previous use as industrial.

4.2 There would be noise, dust, heavy machinery, lorries, vans and workmen from morning until night, muck dragged onto the roads and left.

Conditions restricting the hours of operation and relating to keeping the surrounding roads free from mud can be attached to any grant of planning permission.

4.3 The application site does not include the lane between Nos 1 and 3 Crosshouse Road. If the proposal goes ahead the owners seek assurances that there will be no further use of this lane as it is not designed for continuous or heavy traffic. The house occupiers have complained for years about the lorries entering/leaving the haulage yard shaking the house foundations. This land should not be used for access prior to, during or after development as this would result in a serious loss of privacy. The lane should also not be used as a footpath to connect the development to Crosshouse Road as this would also affect the privacy of the adjacent houses since the general public would use this lane as would youngsters hanging about. This would also cause a nuisance in terms of litter, pollution etc. How is it intended to close off the lane and when would this happen?

The applicant's agent has advised that it is not intended to use the lane as the main access during construction. It is intended to initially construct the new roadway and thereafter develop the site from the new roadway at Braehead Terrace. The proposal provides for a new fence and hedge to close off the access road along the line of the existing rear boundaries on Crosshouse Road. With regard to the future use of the access lane the applicants agent understands that ownership may be passed to one of the flanking houses or perhaps shared between them.

Safety

4.4 A registered childminder lives adjacent to the lane with children going back and forth all day to nursery and school. They already have to cross a busy and dangerous road and the addition of site traffic using the lane would make it even more dangerous to cross the lane. School children and the public use the pavement that site traffic would need to cross. The pavement on the opposite side of the road does not start until you come to the end of the lane.

See response to para 4.3 above.

4.5 The property adjacent to the lane has a right of access and uses it every day to enter their driveway. They also have to reverse their caravan into the drive. In addition there is a caravan sales business using this access and therefore it would not be safe to use this lane for site access.

See response to para 4.3 above.

Environment

4.6 For environmental reasons mature trees around and inside the site should not be removed. There is also the question of the old curling ponds on this site, a part of Kilmaurs history. The lorry shed was built on top of one, the other was behind the

shed. Has this been considered? If the land has to be decontaminated this may affect neighbouring land.

East Ayrshire Council's Environmental Health & Waste Management Department have also raised the issue of possible site contamination (see para 3.4 above) which can be addressed by means of appropriate conditions. In addition, the Council's Arboricultural Officer (see para 3.8 above) has advised that the holly trees in Plot 2 are the only trees worthy of retaining.

Infrastructure

4.7 As it stands the village infrastructure cannot support the density of another such housing development because of:

- a) lack of shops;
- b) lack of schools;
- c) current overload/incapacity of local sewers/drainage, and
- d) current overload/incapacity of water supply.

As can be noted from paras 3.1 and 3.3 above, neither Scottish Water nor SEPA have objected to the proposals. Furthermore, it is not considered that an additional 10 houses will unduly impact on the existing retail facilities or schools.

Loss of Play Area

4.8 The entrance to the proposed development is through a designated play area. This area was in the original plans for this estate as a play area and the children have always used it and therefore it has kept the children off the streets. Removal of this area could seriously jeopardise the safety of our children. This is the only safe area within the boundaries of the estate for children to play in. Morton Park is across a very busy road and has become home to the less desirable of the village youth.

The area in question has never on the basis of available information been utilised as a childrens play area although it is acknowledged as making a contribution to the amenity of the area whilst supporting a pedestrian link to the main Kilmarnock Road. It is considered that the loss of part of the grassed section can in this instance be supported as it allows the appropriate and sympathetic reuse of the larger site.

Increased Traffic

4.9 There will be increased traffic into the estate and at Braehead Terrace leading to an increased risk of accidents. Towerhill Avenue has only one pavement and as such is not adequate for the existing volume of traffic.

This aspect of the proposal has been assessed and the Councils Roads and Transportation Division have confirmed that they are satisfied that the proposal can be accommodated subject to their requirements. The relevant matters can be addressed by means of conditions if the Committee are of a mind to approve the application.

Property Value

4.10 The proposed development could have a detrimental effect on the value of adjacent properties.

The value of properties is not a material consideration. Nevertheless, it is considered that the development of the site for residential purposes as opposed to the previous industrial use is unlikely to be detrimental to the value of adjacent properties.

Parking

4.11 If the development goes ahead, a condition should be attached requiring appropriate dedicated parking behind the houses on Townend, as the parking in this area is atrocious and despite appeals nothing has been done. This would give an opportunity to provide parking other than on the road which causes problems.

Noted. This aspect, parking difficulties for existing housing on Townend, is a totally separate matter and it would be inappropriate to attempt to address the issue through the consideration of this application. As stated above, the Council's Roads and Transport Division have restricted their comments to the particulars of the application and are satisfied with the proposal.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application, the development plan comprises the Approved Ayrshire Joint Structure Plan, and the Adopted Kilmarnock Local Plan. The Adopted Local Plan was prepared in the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, the application site lies within the settlement boundary of Kilmaurs and falls to be determined with regard to Policy 4.1.5 of the Adopted Kilmarnock Local Plan, Policy 4.1.5 states:

“Housing development shall be allowed within the urban envelopes of:-

Kilmarnock
Hurlford & Crookedholm
Kilmaurs
Crosshouse
Knockentiber
Gatehead

as defined on the proposals maps where:-

(1) the proposed development is for a maximum of 10 dwellings and the proposed development is on a site of not more than 0.5 ha and is not likely to be detrimental to or be adversely affected by adjacent uses, or

(2) the proposed development is for an infill site which, in the opinion of the Planning Authority, constitutes vacant or degraded land and is not likely to be detrimental to or be adversely affected by adjacent uses ...”.

The development site lies within the urban envelope of Kilmaurs as defined in the Adopted Local Plan and has been divided into 10 plots. It is also considered that since the adjacent land uses are residential there will be no detrimental impact arising from the proposed use. It is therefore considered that the proposal complies with Policy 4.1.5 of the Adopted Local Plan.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the assessment of this application are the East Ayrshire Local Plan (Finalised Version with Modifications), consultation responses, letters of objection and impact on the amenity of the area.

East Ayrshire Local Plan

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered inappropriate to attach greater weight to more recent expressions of policy. The Council has agreed that the East Ayrshire Local Plan Finalised Version with Modifications, 2002, should be considered a prime material consideration. For the purposes of this application the most appropriate policies are Policy RES4, RES22, IND8 and ENV7.

6.3 Policy RES4 aims to bring areas of vacant and often derelict land into active use to improve the amenity of an area. In such instances “the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites not specifically safeguarded or identified for particular development purposes on the Local Plan Maps.”

The site has not operated as a haulage yard for approx 18 months and is located within a residential area. The site is not identified for any

particular use within the Local Plan and therefore it is considered that the proposal complies with Policy RES4.

6.4 Policies RES22 requires that all developers observe the minimum private open space criteria and standards detailed in Schedule 4 of the Local Plan. Schedule 4 states that each detached house should provide for a minimum of 100m² of private open space.

Each house plot within the proposed development meets the required allocation of private open space. The proposal therefore complies with Policy RES22.

6.5 Policy IND8 aims to bring redundant industrial buildings and land back to an acceptable alternative economic use. Alternative uses of former industrial land shall be considered acceptable subject to:

- (i) the proposed use not being detrimental to surrounding established uses;
- (ii) the proposed meeting with the requirement of all other relevant Local Plan Policies; and
- (iii) the existence of alternative industrial land or premises.

It is considered that the proposed residential use is compatible with the surrounding residential properties and is not detrimental or contrary to other relevant Local Plan policies. An area of industrial development already exists to the south of Kilmaurs at Towerhill. It is therefore considered that this proposal complies with Policy IND8.

6.6 Policy ENV7 states that developers should comply fully with the Council's Design Guidance. This is to ensure a high standard of design for new development in line with Council advice and guidance.

It is considered that, subject to conditions regarding materials, the proposed layout and design of the single storey development meets the Council's Design Guidance and therefore Policy ENV7.

Consultations

6.7 As detailed in Section 3 above, the consultations are supportive of the application subject to conditions.

Representations

6.8 The matters raised by the objectors have been assessed but are not considered to be of a sufficient weight to justify the refusal of the application.

Impact on the Amenity of the Area

6.9 The circumstances of the site are such that it is considered that the proposal can be accommodated with no detrimental impact on the amenity of the area in general or on the residential amenity of the adjacent properties.

7. FINANCIAL OR LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in determining this application.

8. CONCLUSION

8.1 As is indicated in Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As indicated in Section 6 of the report, there are material considerations relevant to this application which are supportive of the application.

8.2 It is considered that the objections relating to traffic, access, amenity, environment and local infrastructure have been addressed in Section 4 and are not of sufficient weight as to merit refusal of the application.

9. RECOMMENDATION

9.1 It is recommended that the application be approved, subject to the conditions listed on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee as that would not represent a significant breach of Council policy.

Alan Neish
Head of Planning and Building Control

24 February 2003

(YN/MS)

FV/DVM

List of Background Papers

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letters of Objection.
5. East Ayrshire Council Design Guidance (2001).
6. Adopted Kilmarnock Local Plan.
7. EALP (Finalised Version with Modifications).
8. Approved Strathclyde Structure Plan.
9. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers please contact Yvonne Nisbet on (01563) 576771.

Implementation Officer: Dave Morris

I:NALP/030092FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 03/0092/FL

Location: Malcolm's Yard
Crosshouse Road
KILMAURS

Nature of Proposal: Proposed Residential Development

Name & Address of Applicant: Jim Scott Homes
East Donnington Street
DARVEL
Ayrshire

Name & Address of Agent: Fleming Muir Architects
20 St Quivox Road
PRESTWICK
KA9 1LJ

DPO's Ref: YN/MS

The above FULL application should be granted subject to the following conditions:

1. A landscaping scheme, including treatment of the boundaries of the site, including infill and the areas of public open space to the east and west of the new access road shall be submitted to and approved by the Planning Authority prior to the commencement of any development, and shall be implemented not later than the next appropriate planting season after the development has been carried out. The scheme shall include details of the provision to be made for the maintenance of soft and hard landscaped areas, and shall be maintained thereafter in accordance with these details.

REASON To ensure that adequate provision of public open space is provided, to an adequate standard, and that it is subsequently maintained, in the interest of residential and visual amenity.

2. Access to the existing path leading from Braehead Terrace to Catherine Place shall be maintained at all times during and after construction of the development hereby approved.

REASON In the interests of residential amenity and public safety.

3. The access road shall be constructed to a standard acceptable to the Planning Authority prior to occupation of any of the houses and thereafter shall be completed to an adoptable standard in accordance with the Roads Division's Guidelines. Details of the surfacing of the access road prior to occupation of any of

the houses shall be submitted to and approved by the Planning Authority prior to commencement of any development as shall details indicating the extent of any cut or fill engineering operations associated with forming the access through the existing area of open space.

REASON In the interests of residential amenity and road safety.

4. During construction, the developer of the site shall ensure that adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other material carried from the site by construction and any other vehicles.

REASON In the interests of public and road safety and residential amenity.

5. Notwithstanding any specification on the approved plans and application form, details of the location, design and materials to be used in the construction of all fences, walls and other means of enclosure to be erected within the site shall be submitted to and approved by the Planning Authority prior to the commencement of any work on site.

REASON To allow the Planning Authority to control the design and construction of such features in the interests of residential and visual amenity.

6. Details of the boundary treatment of the site shall provide for rear garden fences of each plot to be a minimum of 1.8m high.

REASON In the interests of residential and visual amenity.

7. Any screen fencing to be erected within the site shall not project forward beyond the front building line of any dwellinghouse.

REASON In the interests of visual amenity.

8. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, (or any order or enactment replacing this) no extensions or garages (unless forming part of the approved layout plan) shall be erected on the site (unless a further specific planning application is submitted to and approved by the Planning Authority.)

REASON To enable the Planning Authority to ensure that such structures are provided in a manner compatible with the visual amenity of the area.

9. Notwithstanding any specification on the approved plans or application form details/samples of all external materials to be used shall be submitted to and approved by the Planning Authority before any development commences on the site. Details of the front elevational treatment of each house shall provide for a predominance of render over facing brick.

REASON In the interests of visual amenity.

10. Notwithstanding the plans hereby approved details of the works required to the wall to the rear of No. 6 Braehead Terrace and of the timing of their implementation, shall be submitted to and approved by the Planning Authority prior to commencement of any development on site.

REASON In the interests of residential and visual amenity.

11. Construction works shall not be undertaken on site outwith the hours of 0800 hours to 1800 hours Monday to Friday, and 0900 hours to 1600 hours on Saturday and not at any time on Sunday.

REASON In order to protect the amenity of neighbouring properties.

12. No surface water shall issue from the site onto the public roads or adjacent land both during and after construction.

REASON To ensure the provision and maintenance of a secure road surface in the interests of road and public safety.

13. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

REASON To ensure that appropriate archaeological investigation work is undertaken before development commences.

14. Vehicular and pedestrian access shall be maintained at all times to those properties currently accessed off the lane at Crosshouse Road.

REASON In the interests of road safety and residential amenity.

15. Notwithstanding the submitted plans a risk assessment shall be undertaken (as described in SEDD Planning Advice Note 33: Development of Contaminated Land) to consider whether or not contaminants are entering or are likely to enter controlled waters and at what concentration.

REASON In the interests of public safety.

16. Development shall not begin until a scheme to deal with any potential contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:

- i) the nature, extent and type(s) of contamination on the site;
- ii) measures to treat/remove contamination to ensure the site is fit for the use proposed;
- iii) measures to deal with contamination during construction works;
- iv) condition of the site on completion of decontamination measures.

Before any residential unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

REASON In the interests of public safety.

17. Before any work commences on site, details of a sustainable urban drainage system and its maintenance following installation shall be submitted to, and approved by the Planning Authority. The sustainable urban drainage system shall thereafter be installed on site, prior to the erection of any of the dwellinghouses in the development site.

REASON To ensure that adequate drainage is provided.

Note to Applicants

1) The Developer shall make early contact with the Scottish Environment Protection Agency and Scottish Water to confirm their request to utilise a Sustainable Urban Drainage System, (SUDS), with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.

2) The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements which may require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.

3) This site is suspected to be contaminated. You should be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

4) The Developer will be required to introduce traffic calming measures on Towerhill Avenue. The details of this will form part of the necessary road construction consent.

5) The Planning Authority has determined the application on the basis of the information available to it. This does not necessarily mean that the land is free from contamination.

- 6) Details of the highest water fitting related to Ordnance Datum and the proposed demands should be forwarded to Scottish Water in order that hydraulic testing can be carried out.
- 7) Scottish Water strongly recommend that a cold water storage system is provided for each house having an actual (not nominal) capacity of 200 litres.
- 8) Wayleave permission will be required for the relevant owner of adjoining land. The drainage requires to drain to the south of the development.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**