

Erection of a Summerhouse Within Garden Ground (Retrospective)

KEY INFORMATION

Ward Maryfield

Address

6 Old Craigie Road, Dundee

Applicant

Mr Connor McCartney
6 Old Craigie Road
Dundee

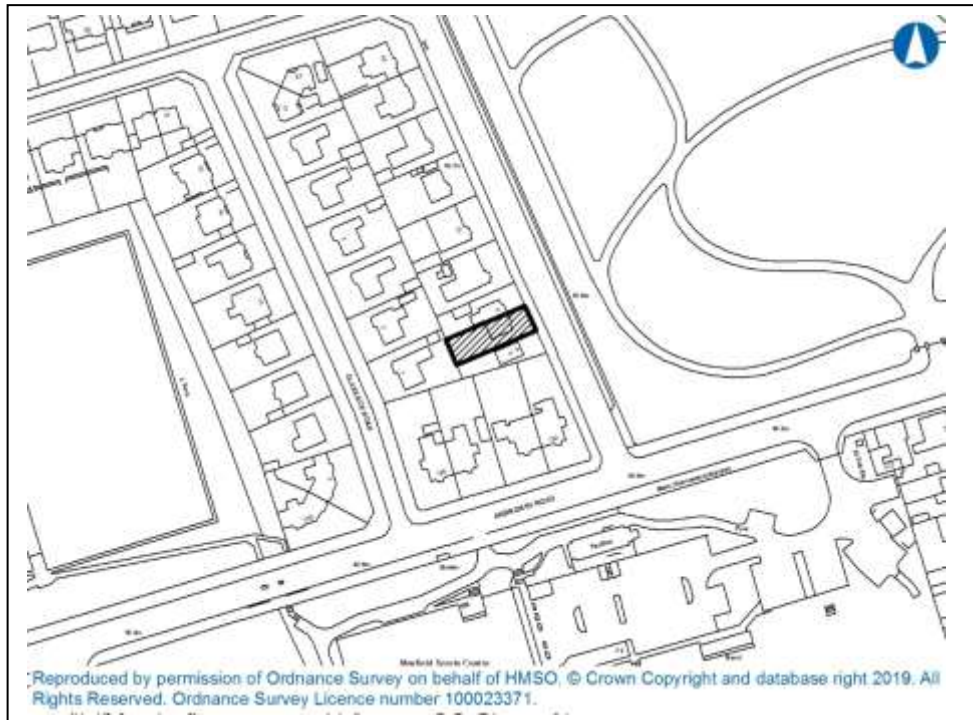
Agent

N/A

Registered 27 May 2019

**Report by Head of Planning
and Economic Development**

Contact: Ross Pattenden



SUMMARY OF REPORT

- Planning permission is sought for the retrospective erection of a summerhouse within the rear garden ground of a two storey semi-detached property on Old Craigie Road.
- The application is not in accordance with the Development Plan.
- The statutory neighbour notification process was undertaken and the application advertised in the local press. 6 letters of objection have been received. No letters of support have been received.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee at the request of an Elected Member.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=PS5GZEGCK5900>

RECOMMENDATION

The proposal is not in accordance with the Development Plan. There are no material considerations that would justify approval of planning permission. The application is therefore recommended for REFUSAL.

1 DESCRIPTION OF PROPOSAL

- 1.1 Retrospective planning permission is sought for the erection of a summerhouse in garden ground. The summerhouse measures 4m x 8m and is 3.2m in height sloping down to a height of 2.8m towards the west elevation boundary. The timber framed summerhouse has a mono-pitch roof and the proposed finishing materials are whitewood weatherboard clad walls and rolled felt roof. Window openings and a door access are proposed on the east elevation of the summerhouse. The summerhouse is located to the west (rear) elevation of the existing house and has been positioned within 1 metre of the neighbouring boundaries to the north elevation, south elevation and west elevation of the proposal site.

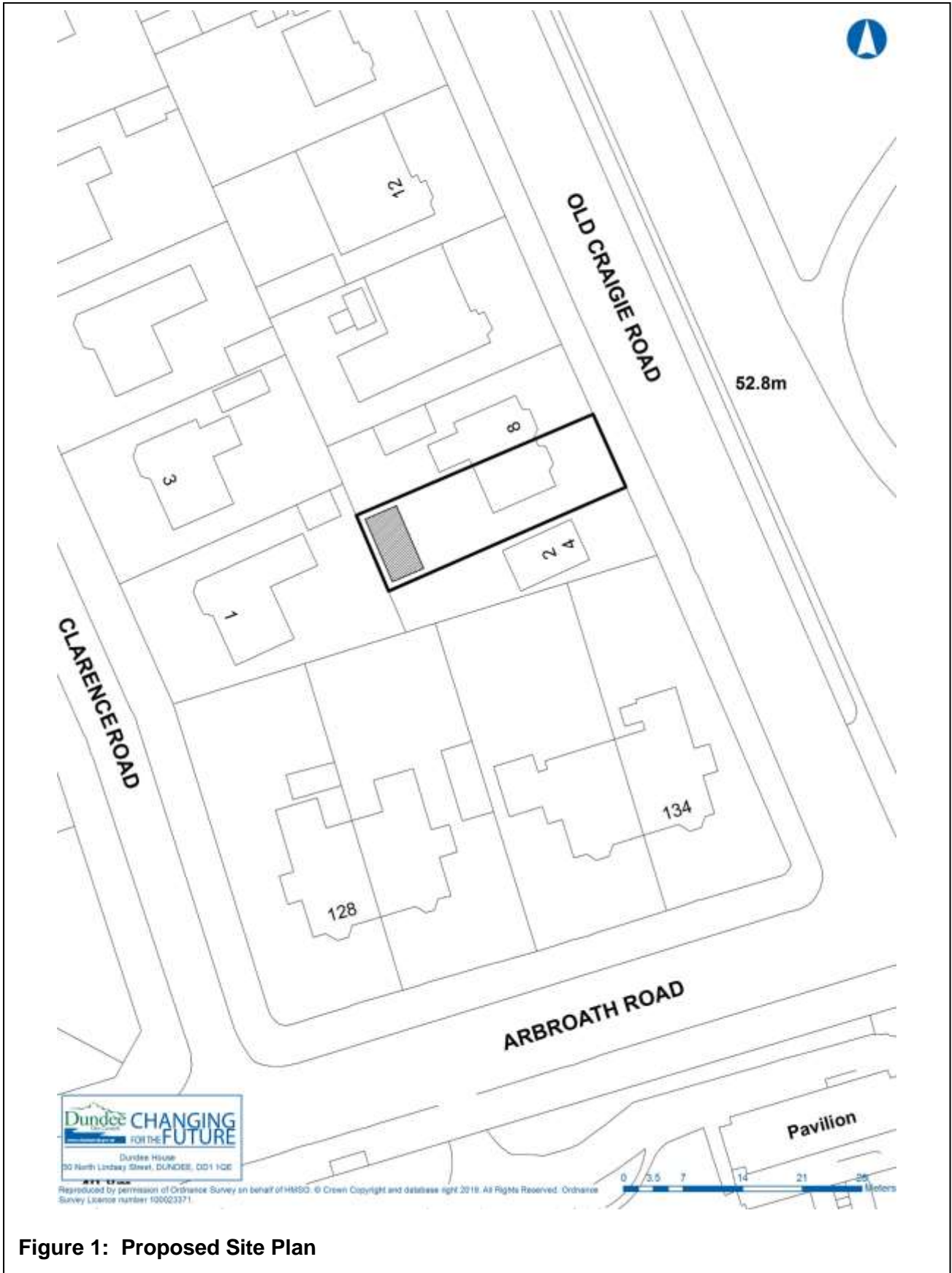


Figure 1: Proposed Site Plan

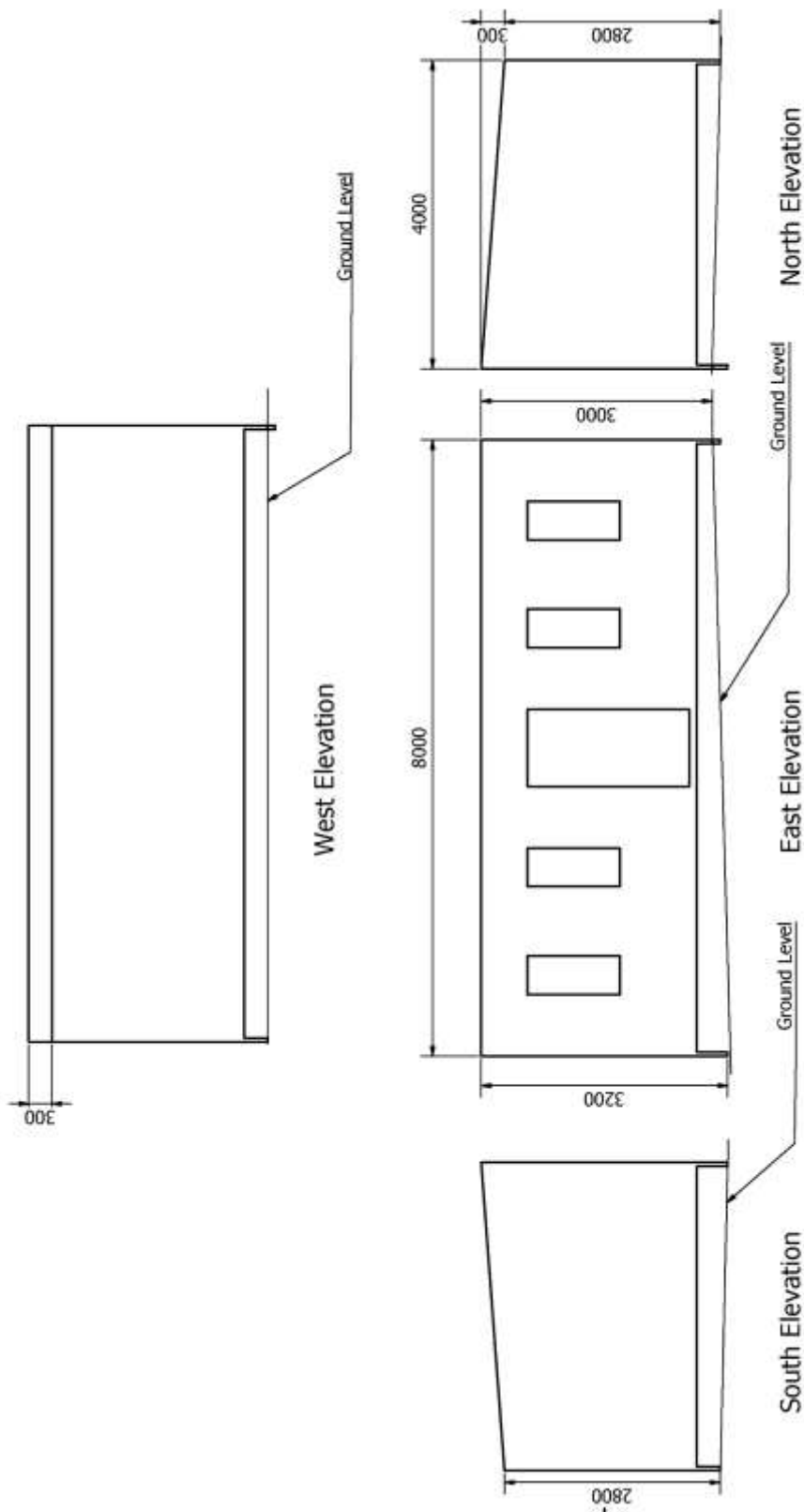


Figure 2: Proposed Elevations

2 SITE DESCRIPTION

- 2.1 The application site is a two storey semi-detached house located on the west side of Old Craigie Road.
- 2.2 The property is set back from Old Craigie Road with a small front garden bound by a low boundary wall to the east (front) elevation of the property. The front door to the house is on the east (front) elevation and there is an area of private garden ground on the west (rear) elevation. The property is finished in grey roughcast render with white upvc windows. The property is bound to the north, south and west by neighbouring residential properties and to the east of the proposal site is the Category B-listed Eastern Necropolis and North Lodge.



Figure 3: Site Photograph

3 POLICY BACKGROUND

3.1 The following plans and policies are considered to be of direct relevance:

TAYPlan 2016 – 2036

The application raises no issues of relevance.

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 11: Householder Development

Householder Development – Advice and Best Practice Supplementary Guidance

3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

4.1 The Council were made aware that a timber frame structure had been erected at 6 Old Craigie Road without planning permission having been granted. Following discussions between the Council and the site owner a planning application for the erection of a summerhouse was submitted.

5 PUBLIC PARTICIPATION

5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.

5.2 6 objections have been received raising the following valid material grounds:

- Height, size and positioning of the development
- Impact on privacy as result of overlooking
- Loss of light and overshadowing
- Not in keeping with character of surrounding area
- Concern that potential use(s) could result in noise impact and traffic impact
- Dimensions shown on plan are not as built
- Development was constructed without any consultation with the neighbours

5.3 Concerns were also raised in relation to the structural impact on the existing retaining boundary wall. However, that is not a valid material planning consideration.

5.4 The valid grounds of representation are taken into account in the material considerations section of this report.

6 CONSULTATIONS

- 6.1 No consultations were received to the application.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Town and Country Planning Act 1997 as amended provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.**

THE DEVELOPMENT PLAN

- 7.2 The provisions of the development plan relevant to the determination of this application are specified in the Policy Background section above.

TAYPLAN 2016 – 2036

- 7.3 The application raises no issues of relevance.

DUNDEE LOCAL DEVELOPMENT PLAN 2019

- 7.4 **Policy 11: Householder Development** - the policy states that householder development will be supported where it:

- 1 does not have a detrimental impact on the character or environmental quality of the house and the surrounding area by virtue of size, design and materials;
- 2 does not result in a significant loss of private/useable garden ground;
- 3 does not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking; and
- 4 does not have a detrimental impact on the existing level of parking provision.

- 7.5 The preamble to Policy 11 also states that the Dundee Local Development Plan Householder Development – Advice and Best Practice Supplementary Guidance provides guidance on the design, scale and location of householder development. Outbuildings should be smaller in scale to the main dwelling house and of a scale appropriate to a domestic garden setting.

- 7.6 In respect of Policy 11, the proposal is assessed against the four criteria as follows:

- 1 The summerhouse is located to the west (rear) elevation of the existing house and has been positioned within 1 metre of the neighbouring boundaries to the north elevation, south elevation and west elevation. The ground level of the rear garden ground of the proposal site is elevated particularly in comparison to the surrounding neighbouring garden grounds to the south and west. The elevated ground level of the proposal site along with the close positioning of the summerhouse to the neighbouring boundaries accentuates the height and scale of the summerhouse and results in a detrimental impact on the character and environmental quality of the surrounding neighbouring properties. Notwithstanding the unacceptable size and scale of the development, the proposed finishing materials themselves would be acceptable because they would not be out of character with the surrounding area. The height and massing of the summerhouse would

be of a scale that would have a detrimental impact on the character and environmental quality of the surrounding area and the application is not in accordance with the requirements of criterion 1.

- 2 The area of garden ground provision to the west (rear) of the existing property is 140m². The remaining useable area of garden ground following the construction of the summerhouse is around 100m², which would still be considered as useable amenity provision for the house. The proposal therefore has not resulted in a significant loss of private/useable garden ground and the application is in accordance with criterion 2.
- 3 The summerhouse is positioned in the rear garden and the ground level of the proposal site is on an elevated position in comparison to the garden grounds of neighbouring properties. The siting of the development on an elevated position and in close proximity to the neighbouring boundaries accentuates the height and massing of the summerhouse and as a result the building has a detrimental physical impact on the amenity of the neighbouring properties. The height, scale and design of the summerhouse as well as the positioning in relation to neighbouring properties would have a detrimental impact of overshadowing of the garden ground of neighbouring properties. The window openings of the summerhouse are on the east elevation and face into the private garden ground of the existing property. There would be a degree of overlooking from the summerhouse window openings of the summerhouse to the windows of the neighbouring properties. However, these window openings are not directly facing each other as they are at an angle. There would also be a degree of overlooking into the garden ground of the neighbouring properties and should members be minded to approve the application a planning condition could be applied to install boundary treatment to mitigate overlooking. The neighbouring garden grounds are already overlooked from window openings of the existing house and with the addition of a condition the summerhouse would not exacerbate the current overlooking situation to a degree that would be significantly detrimental.

Overall, the proposal would have a detrimental impact on the neighbouring properties as a result of physical impact and overshadowing and the application is not in accordance with criterion 3.

- 4 The summerhouse is located to the west (rear) elevation of the existing house. On street parking provision is located to the east (front) elevation of the property. The proposal would therefore not have an adverse effect on the existing level of parking provision and the application is in accordance with criterion 4.

7.7 The proposal is not in accordance with Policy 11.

7.8 For similar reasons to those set out in the assessment above, the proposal would not comply with the Dundee Local Development Plan Householder Development - Advice and Best Practice Supplementary Guidance.

7.9 It is concluded that the proposal is not in accordance with the Development Plan.

MATERIAL CONSIDERATIONS

The material considerations to be taken into account are as follows:

A – Representations

7.10 6 objections have been received raising the following valid material grounds:

- Height, size and positioning of the development
- Impact on privacy as result of overlooking
- Loss of light and overshadowing
- Not in keeping with character of surrounding area
- Concern that potential use(s) could result in noise impact and traffic impact
- Dimensions shown on plan are not as built
- Development was constructed without any consultation with the neighbours

7.11 The grounds of objection are considered and assessed as follows:

Objection: concerns were raised by objectors regarding the height, size and positioning of the development and the impact on the neighbouring properties

Response: as assessed above against Policy 11 it was concluded that as a result of the positioning, height and scale of the summerhouse it would have a detrimental physical impact on the neighbouring properties.

Objection: impact on privacy as result of overlooking.

Response: as assessed above against Policy 11 the window openings of the summerhouse face onto the existing garden ground of the dwelling. There would be a degree of overlooking from the summerhouse window openings of the summerhouse to the windows of the neighbouring properties. However, these window openings are not directly facing each other as they are at an angle. There would also be a degree of overlooking into the garden ground of the neighbouring properties and should members be minded to approve the application a planning condition could be applied to install boundary treatment to mitigate overlooking. The neighbouring garden grounds are already overlooked from window openings of the existing house and with the addition of a condition the summerhouse would not exacerbate the current overlooking situation to a degree that would be significantly detrimental.

Objection: loss of light and overshadowing.

Response: this point is discussed earlier in this section of the report where it was concluded that as a result of the height, design and positioning of the proposed summerhouse there would be a detrimental effect on the garden ground of the neighbouring properties in terms of overshadowing.

Objection: not in keeping with the character of surrounding area.

Response: this point is discussed above in the assessment of Policy 11 where it was concluded that the summerhouse is considered to have a detrimental impact on the character and environmental quality of the house and the surrounding area by virtue of height and scale.

Objection: the footprint of the summerhouse is excessive in comparison to that of the residential house.

Response: as assessed against Policy 11 the proposal would result in an area of around 100m² of useable private rear garden ground which would be an area of private amenity space that would be commensurate for the size of the house.

Objection: concern that potential use(s) could result in noise impact and traffic impact.

Response: objections were received regarding concerns that the structure could be used for a commercial business and this would increase traffic in the area. The planning application submitted is for the erection of a summerhouse and has therefore been assessed as such. Objections were also received highlighting concern that the summerhouse could be used for entertaining and this would result in a detrimental impact on neighbouring properties as a result of an increase in noise in the area. The control of noise disturbing the local area as a result of entertaining within the curtilage of a residential dwelling would be controlled through Environmental Legislation and this would not be a material planning consideration.

Objection: the dimensions shown on the submitted plans are not as has been built on the ground.

Response: the objector has provided examples that they consider the width and height to differ from the annotated drawings. From the site visit that was undertaken as part of the assessment of the planning application the dimensions annotated on the submitted drawings appeared as an accurate representation of the height and width of the summerhouse.

Objection: development was constructed without any consultation with the neighbours.

Response: the objection relates to the development being constructed without any consultation with neighbours and without permission being granted. As described above the planning application is retrospective. The Council requires to determine this application in the same manner as it would have had the application not been retrospective. Members should note, however, that if Committee refuse planning permission, Officers will pursue enforcement action to remedy the unlawful development.

7.12 The issues raised in the representations have been considered and addressed in the report and the grounds raised are not of sufficient weight to justify approval of planning permission.

7.13 **It is concluded that there are no material considerations of sufficient weight in this case to justify approval of planning permission.**

8 CONCLUSION

8.1 The application for the erection of a summerhouse is not in accordance with the Development Plan. There are no material considerations of sufficient weight that would justify approval of planning permission. Therefore it is recommended that planning permission be refused.

9 RECOMMENDATION

9.1 It is recommended that planning permission be REFUSED for the following reason:

- 1 **Reason** - the size and design of the summerhouse would have a detrimental impact on the character and environmental quality of the surrounding area. The positioning, height and massing of the summerhouse would have a detrimental physical impact and overshadowing impact on the neighbouring properties. The application therefore fails to comply with Policy 11 of the Dundee Local Development Plan 2019 and Dundee Local Development Plan Householder Development - Advice and Best Practice Supplementary Guidance. There are no material planning considerations of sufficient weight to justify approval of the application contrary to the development plan.