

Report to Planning Committee

26 July 2023

Application Reference	DC/23/68117
Application Received	23 March 2023
Application Description	Proposed glazed customer seating area extension to frontage (resubmission of refused planning permission DC/22/66636).
Application Address	204 Lightwoods Road Smethwick B67 5AZ
Applicant	Mr Deniz Akgul
Ward	Abbey
Contact Officer	Carl Mercer carl_mercer@sandwell.gov.uk

1 Recommendations

1.1 That, subject to receipt of amendment to plan 'AJ099' to revise seating area, planning permission is granted subject to conditions relating to:


- i) Materials shall be as per the submitted details;
- ii) All glazed areas including roof to conform to submitted details;
- iii) Limit seating to 20 customers; and
- iv) Provision of covered waste storage area.



2 Reasons for Recommendations

- 2.1 The appearance of the glazed extension raises no significant design concerns, the additional seating area would not appreciably exacerbate existing parking issues and the glazed areas would address the noise issues raised, subject to appropriately worded conditions.

3 How does this deliver objectives of the Corporate Plan?

	A strong and inclusive economy
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4 Context

- 4.1 The application is being reported to your committee as five objections have been received.
- 4.2 To assist members with site context, a link to Google Maps is provided below:

[204 Lightwoods Road, Smethwick, B67 5AZ](#)

5 Key Considerations

- 5.1 The site is not allocated within the Development Plan.
- 5.2 The material planning considerations which are relevant to this application are:-

Government policy (NPPF)

Planning history

Amenity concerns – loss of light and/or outlook and overshadowing

Design concerns – appearance, materials and character

Highways considerations - Traffic generation and parking



Environmental concerns – Noise, air quality, pollution and general disturbance

6. The Application Site

6.1 The application relates to a restaurant premises situated on the corner of Lightwoods Road and Three Shires Oak Road, Smethwick. The character of the surrounding area is mixed with elements of residential and commercial uses, and the site is situated near to Bearwood town centre.

7. Planning History

7.1 There was formerly an unauthorised canopy structure which enclosed the outdoor area immediately in front of the premises and was used for additional seating. The structure was subject to an enforcement notice served by the council and has now been removed.

7.2 The applicant had tried to retain the unauthorised structure, but the application was refused due to inappropriate design, poor outlook from the neighbouring property and noise.

7.3 Relevant planning applications are as follows:

DC/22/66636	Proposed pergola system to frontage for customer seating area provision.	Refused 25.03.2022
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8. Application Details

8.1 The applicant now proposes to construct a glazed extension to the outdoor area. The internal area is shown to seat 20 customers (this has been reduced from 32).

8.2 In an attempt to address the reasons for refusal of the last structure, the applicant has provided a contemporary glazed design, offset the side of



the structure from the neighbouring property on Lightwoods Road and proposed sound insulated glazing.

9. Publicity

9.1 The application has been publicised by neighbour notification letter with five letters of objection being received.

9.2 Objections

Objections have been received on the following grounds:

- i) Noise;
- ii) Parking;
- iii) Odours, rubbish and pollution;
- iv) Unsightly bin storage and storage on footpath;
- v) The description of the 'pergola' structure; and
- vi) Design not in keeping.

Non-material objections have been raised regarding smoke from vents, environmental health/food hygiene visits and the behaviour of clientele.

These objections will be addressed in section 13 (Material Considerations).

10. Consultee responses

10.1 Highways

Highways have raised concerns regarding the seating area and the trip generation this may generate. Based on the original 32 covers, nine parking space would be required. Highways have also noted that the existing delivery and refuse area would be enclosed and have questioned how deliveries/refuse would be managed. The proximity of the walls from the footpath has been raised as well as the provision of plant pots. The plant pots are removed from the amended plan. In



regards to the proximity of the structure from the footpath, there is already an existing wall in place and the proximity of the wall from the highway is not a planning consideration.

10.2 Pollution Control (Noise)

The officer has raised no objection subject to the glazing being to the noise standard noted in the submitted information.

10.3 West Midlands Police

No objection.

11. National Planning Policy

11.1 National Planning Policy Framework promotes sustainable development but states that local circumstances should be taken into account to reflect the character, needs and opportunities for each area. The Framework refers to development adding to the overall quality of the area by achieving high quality design, achieving good architecture and layouts. It also states that developments should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

11.2 I am of the opinion that the contemporary glazed approach is of a good design, in accordance with paragraph 126 of the NPPF.

11.3 In respect of paragraphs 111 of the NPPF, I consider it unlikely that the development would have a severe impact on highway safety for the reasons set out in Material Considerations below.

12. Local Planning Policy

12.1 The following polices of the council's Development Plan are relevant:



ENV3: Design Quality
SAD EOS9: Urban Design Principles

12.2 Policies ENV3 and SAD EOS9 refer to well-designed schemes, and I find no reason to refuse the application on design grounds considering the development would be in proportion to the existing building and proposes appropriate materials.

13. Material Considerations

13.1 National and local planning policy considerations have been referred to above in Sections 11 and 12. With regards to the other material considerations, these are highlighted below:

13.2 Planning history

On balance, this proposal overcomes the previous reasons for refusal: the design is appropriate, the outlook matter has been resolved and the noise concerns are lessened.

13.3 Amenity concerns – loss of light and/or outlook and overshadowing

The structure would not be within proximity of other properties as to cause significant amenity concerns. The side elevation has also been stepped off the boundary with the adjacent residential property on Lightwoods Road.

13.4 Design concerns – appearance, materials and character

The previous structure was completely unacceptable, but the current design proposes a contemporary glazed design which is proportionate to the existing building. I appreciate the comments regarding character



raised by objectors; however, in this instance I feel that the contrast is appropriate and is fitting for such a use on the edge of a town centre.

13.5 Highways considerations - Traffic generation and parking

I note the concerns raised by Highways, however, the seating area has now been reduced to 20 customers, which can be controlled by condition. Additionally, the previous structure had been in place and used since August 2018 and the parking and road safety team had received no complaints or concerns from local residents relating directly to this establishment during this time. The applicant has referred to a parking agreement with the church opposite to use their car park for customer parking. Whilst there is some reassurance in this approach, this could not be effectively controlled by planning condition if the agreement with the church ended. I have therefore based my recommendation with the church parking excluded from the proposal. In respect of the waste storage, this appears to be in the same position as it has been for a number of years when viewed on Google street view images. However, I am not disputing objectors' concerns that it can be unsightly and further details for a covered waste storage area can be requested by condition. The matter of storage on the highway would have to be investigated by the highway authority.

13.6 Environmental concerns – Noise, air quality, pollution and general disturbance

The issues raised relate to the current operation of an established use and the application would not exacerbate these issues. Indeed, the covered area would lessen the noise impact as customers can currently use this open area – the glazed walls and roofing would prevent such noise from escaping. Existing issues regarding smoke, cooking odours and pollution would need to be reported to Environmental Health. Additionally, the police raise no concerns regarding behaviour.



13.7 Other matters

13.8 An objector noted that the description of development did not appear to match what was being proposed as only a canopy was listed. I agreed with this, as the proposal is much more akin to an extension, and the description has been changed in agreement with the applicant's agent to the one before your committee today.

13.9 Whilst plan AJ100 has been amended to provide a revised seating plan, I await submission of AJ099 which requires amendment as this also shows the seating plan. This can be tabled at your meeting.

14. Conclusion

On balance the proposal accords with the provisions of relevant development plan policies and there are no significant material considerations which warrant refusal that could not be controlled by conditions.

15 Alternative Options

15.1 Refusal of the application is an option if there are material planning reasons for doing so. In my opinion the proposal is compliant with relevant policies and there are no material considerations that would justify refusal.

16 Implications

Resources:	When a planning application is refused the applicant has a right of appeal to the Planning Inspectorate, and they can make a claim for costs against the Council.
Legal and Governance:	This application is submitted under the Town and Country Planning Act 1990.
Risk:	None.



Equality:	There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.
Health and Wellbeing:	None.
Social Value	None.
Climate Change	Sandwell Council supports the transition to a low carbon future, in a way that takes full account of the need to adapt to and mitigate climate change. Proposals that help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure, will be welcomed.

17. Appendices

Context plan

AJ100 04.05.2023

AJ099 *to be amended





204 LIGHTWOODS ROAD
SMETHWICK
B67 5AZ

PERGOLA SYSTEM PROPOSAL
FOR EXTERNAL SEATING
AREA

SCALE @VARIOUS

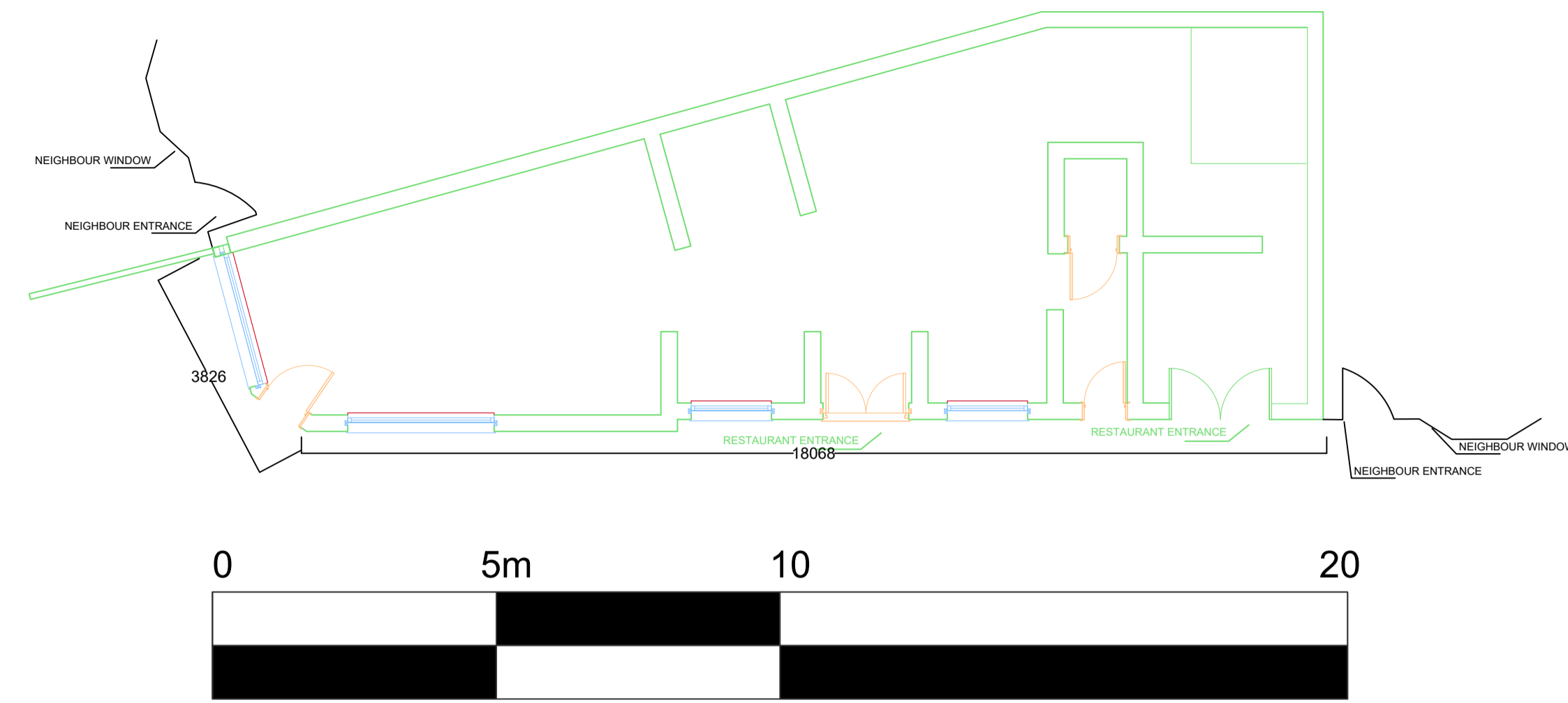
DESIGNED BY KS

CHECKED BY BS

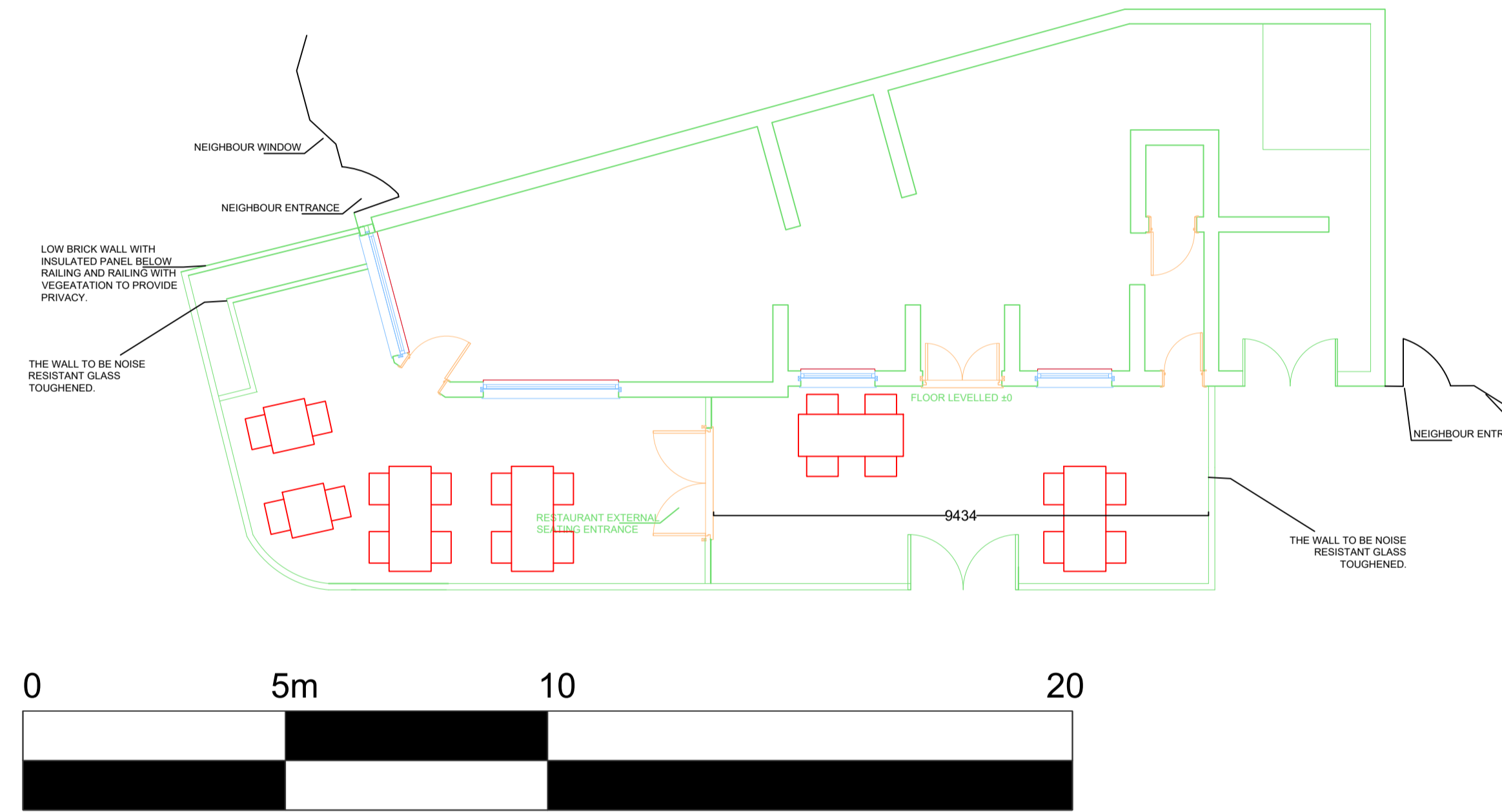
DATE:26.01.2022

DWG NAME:AJ100

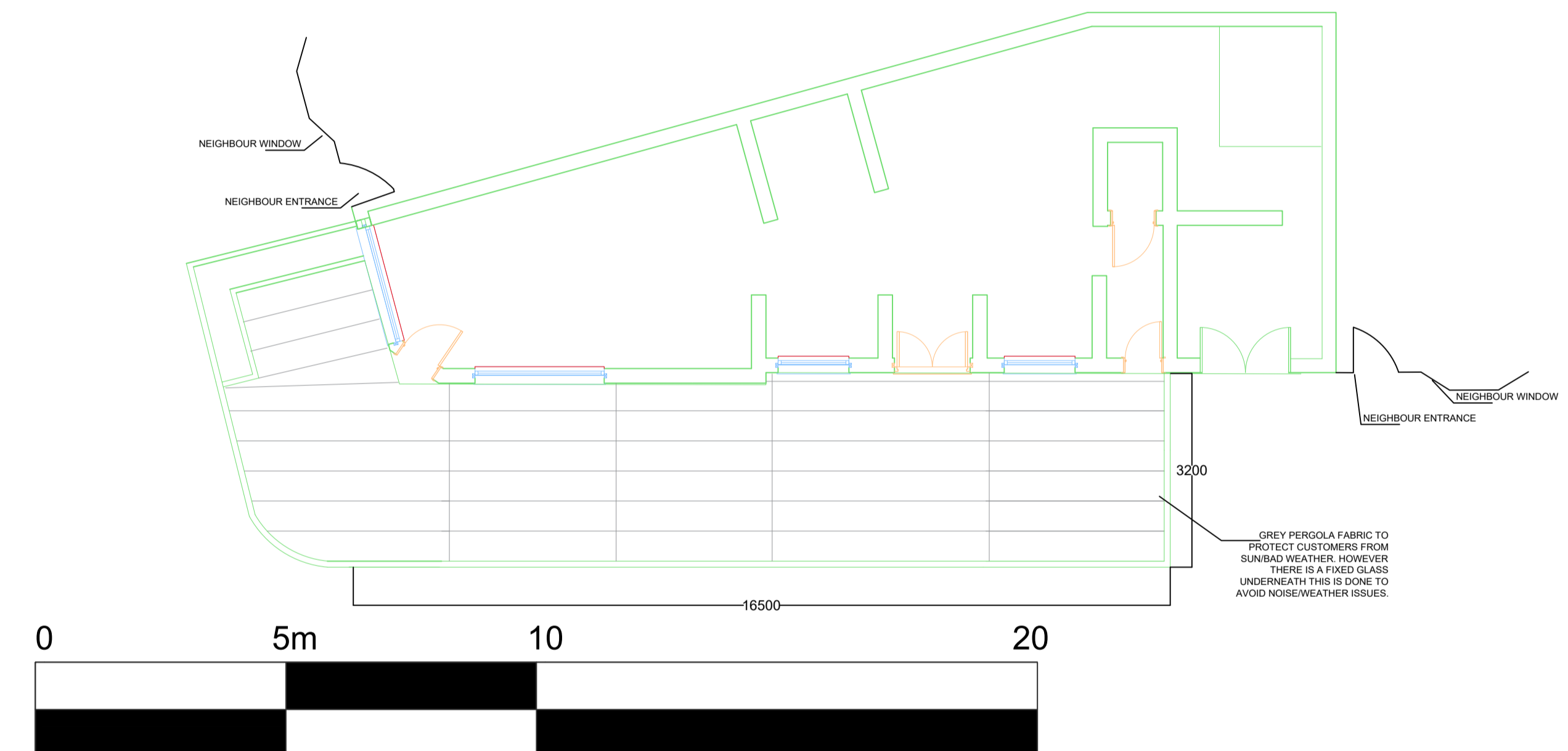
Owner of Nemrut Restaurant would like to install pergolas for the customers to use during winter. Pergola system will be waterproof, and it would be ordered to suit the colours of the external facade of the restaurant and neighboring buildings. It is understood and recognized not to block the view and sunlight of the neighboring buildings with this new pergola system. The 45° angle is measured and the appropriate measures will be taken to avoid disturbing neighbors. Currently the boundary is identified with low brick wall and black railing on top. It would be ideal to keep the existing boundary treatment and owner of the restaurant to install glass wall between neighbor and the restaurant. With this privacy of the customers are kept to a standard and it wont block any view for the neighbors.



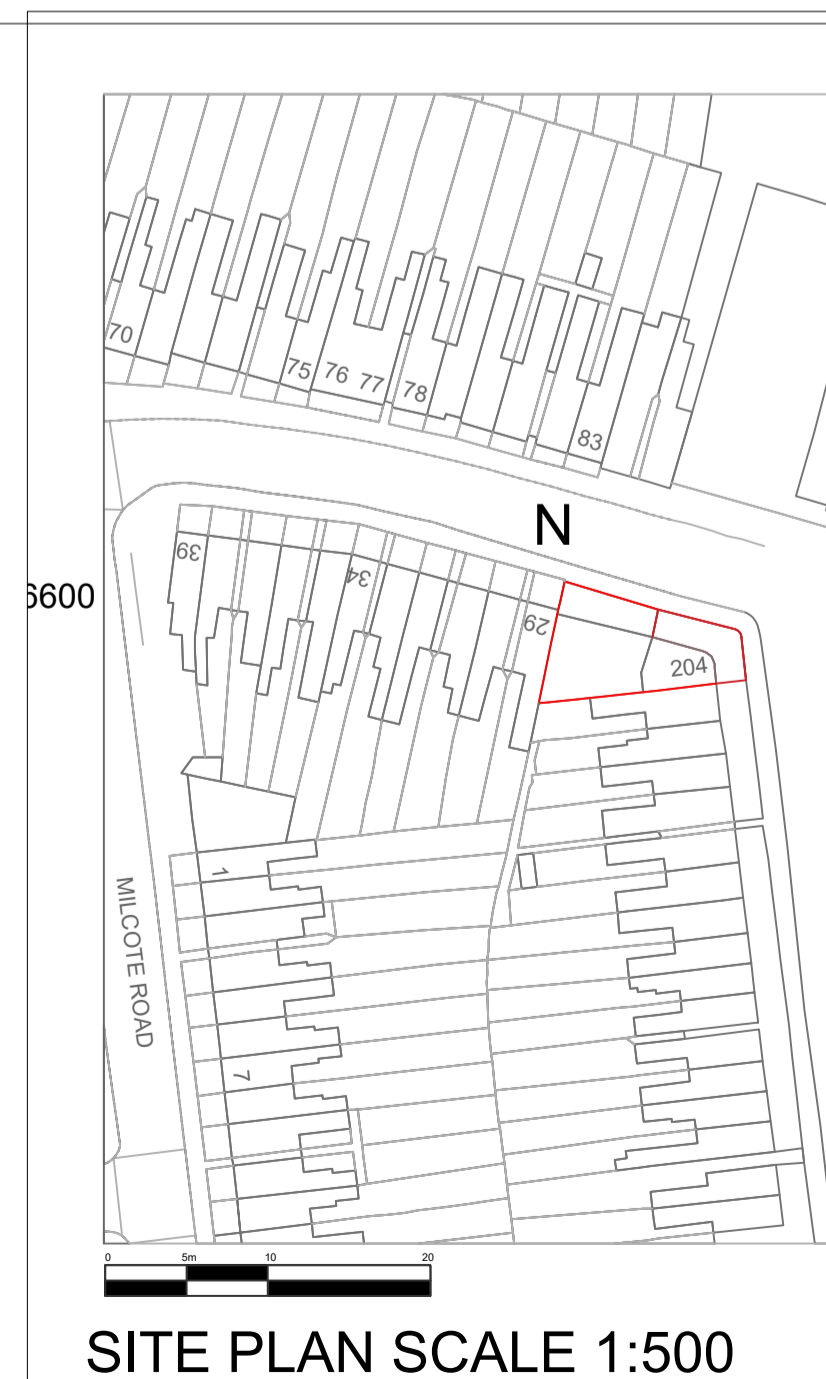
EXISTING FLOOR PLAN SCALE 1:100



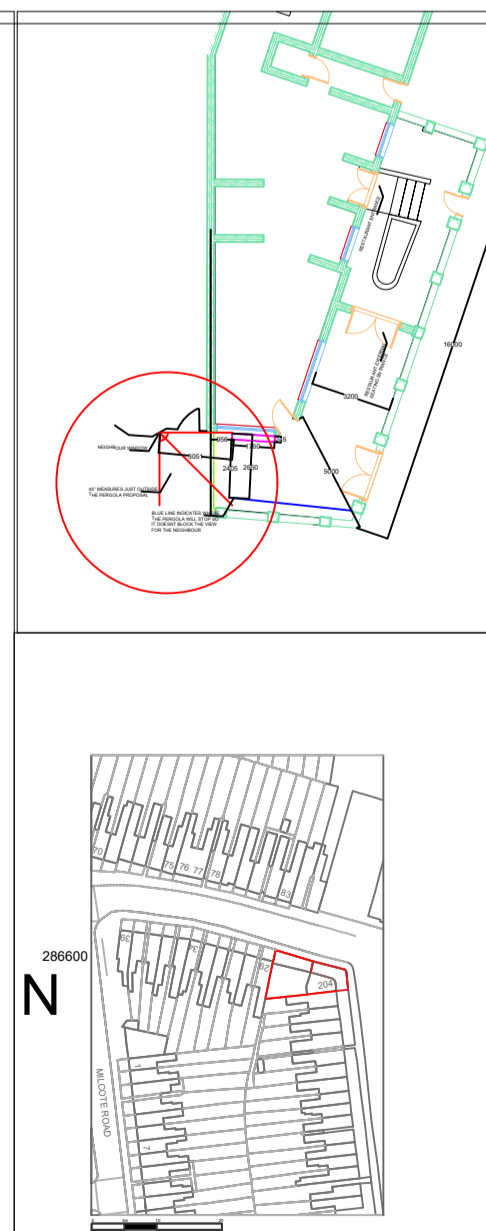
PROPOSED EXTERNAL SEATING AREA SCALE 1:100



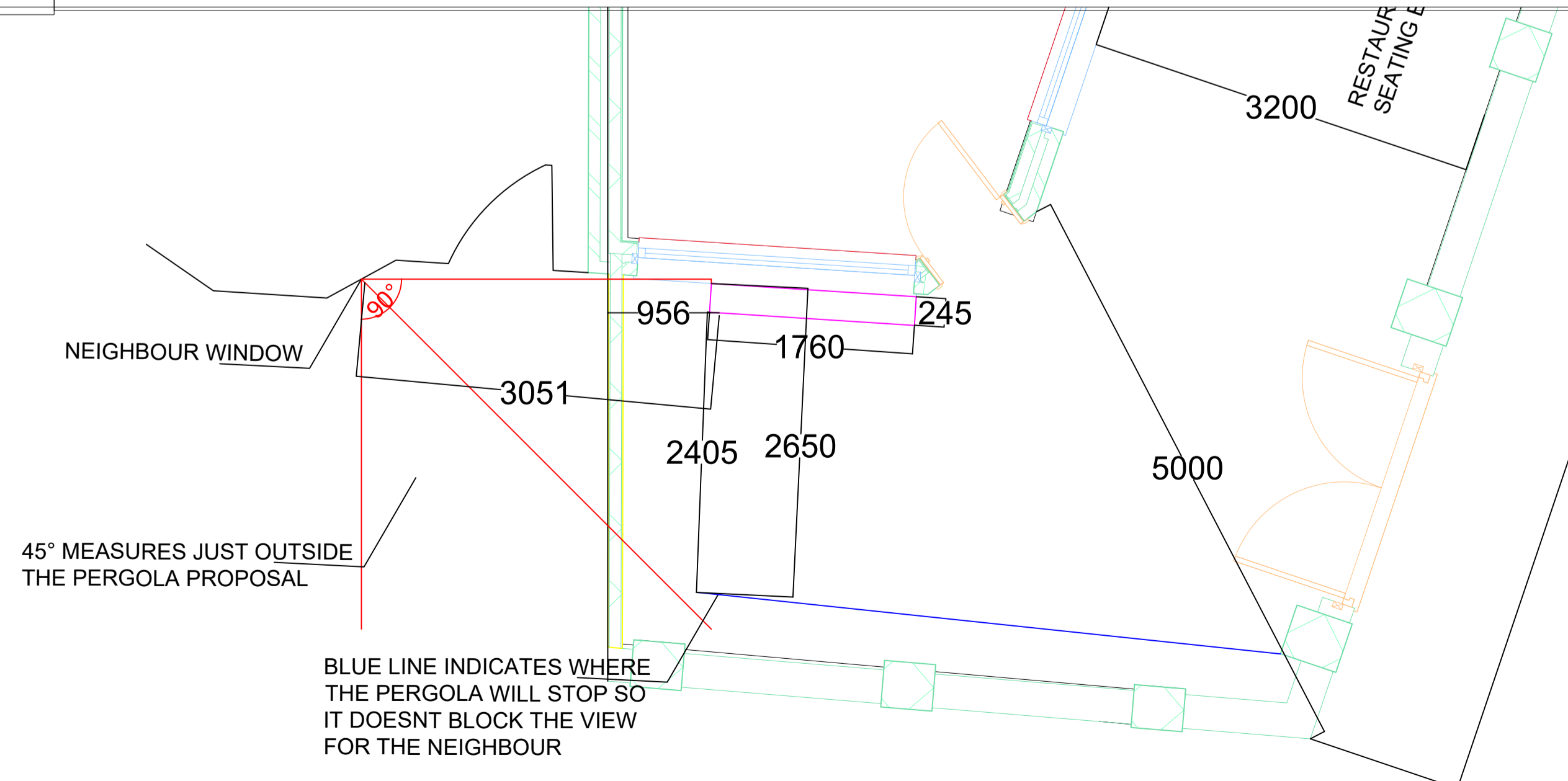
PROPOSED EXTERNAL ROOF PLAN SCALE 1:100



SITE PLAN SCALE 1:500



BLOCK PLAN SCALE 1:1250



45° MEASURES JUST OUTSIDE THE PERGOLA PROPOSAL

BLUE LINE INDICATES WHERE THE PERGOLA WILL STOP SO IT DOESNT BLOCK THE VIEW FOR THE NEIGHBOUR

DETAIL FOR THE 45° VIEW