



‘MAGDALA RESCUE’ OBJECTION

Re Planning Application 2018/6320/P - Magdala Pub

We are a group of residents dedicated to re-opening The Magdala and its function room for the benefit of the local community and all the people who have enjoyed using the pub and function room for many years before its closure.

We are objecting to the conversion of the first floor function room to residential use for the following reasons which will be set out in more detail below.

1. There are numerous pieces of incorrect or misleading information in both the Planning Statement and the Marketing Report.
2. The applicant's proposition is that the only way to open the pub viably is by cannibalising the first floor function room, to pay for works to the ground floor and basement, to attract an operator. This is not supported by sight of any detailed economic assumptions or evidence, which one would expect to see.
3. Specifically, there is no evidence that prospective operators declined to take-on the pub because of the function room.
4. The operator with whom the applicant had entered into advanced negotiations, made an offer to include the first floor function room, once she saw the applicant advertise it, but the applicant did not respond.
5. An enquiry as to the availability of The Magdala, from a Hampstead resident involved in the pub trade, received a response from the applicant's agent, DCL, saying the pub has been ***under offer*** since January 2019.
6. The purpose of the marketing campaign for the pub was to collect evidence to show that no operators want the function room, thereby making it available for conversion to residential. This is confirmed by one of the applicant's team who in an email said, *In order to justify moving the function room to the ground floor, the council require evidence confirming that the first floor function room is not commercially viable. The pub and the function room, in their existing configuration, have therefore been marketed.*

Overview

We are keen to see the Magdala reopened as soon as possible, on a sustainable basis. It is an important community asset (listed as an Asset of Community Value) that has been kept empty for far too long, and it would be a tragedy to lose a key part of it to residential use, particularly with the risk that the rest of it would follow suit in due course.

As is clear from the planning application documents, (which refer to a meeting between local residents and the “applicant”), Ori Calif is the individual behind the company which has made this application, Mulberry One Capital Limited.

We have no position on any wider issues concerning the strategy for revival of The Magdala, apart from this particular application.

We do **oppose** this particular application. It is based on factual errors, and on a basic argument that is wrong. It is not right to try to make a local authority give permission to slice up a much loved asset of community value on the basis of inaccurate information.

Local residents have urged the applicant, directly and through a representative, to withdraw it and to re-engage with the community, which is the right way forward, and the only way forward.

We set out below specific errors. We relate these to the statements made in the documents accompanying the planning application.

A basic point though, is one on which we agree with the applicant, and which should be the litmus test for any successful application. We enthusiastically agree with what the applicant’s advisers write at para 4.1 of the Planning Statement. They say -

“Given this proposal involves the reconfiguration of an Asset of Community Value, transparent consultation with the local residents was fundamental in the preparation of proposals for the reopening of the Magdala.”

The Planning Statement

2.5: “It is understood that the Magdala closed its doors in September 2014. ..”.

The planning statement is incomplete in its description of the recent history.

A company under the control of the individual in charge of the current application, leased the pub to operators for a period in 2015. The fitting out of the pub was very rough and basic, and the food offering was very basic. There was no properly functioning kitchen.

The venture failed, and the present planning application does not give details of the arrangement between the owner of The Magdala (the present applicant but with a different company) and the pub operators at that time.

4.1: “Accordingly, the applicant and architects met with members from the South End Green Association, which is a local residents group, on 17th January 2018 and 29th March 2018 to present to them the emerging plans and to provide details of potential interested tenants.”

This is incorrect. These meetings were not with SEGA, and were never represented to be. They were with a small group of concerned local residents. SEGA has never had meetings with the owner or architects.

4.2: “At both meetings, residents were very positive and enthusiastic about the plans. It was accepted that an isolated function room on the first floor of the building was no longer desirable on the open market and was one of the reasons why the Magdala did not seem to be selling – hence its conversion to residential in favour of the additional funding going towards the creation of a more advanced kitchen with a higher quality food provision was accepted”.

While the statement that these meetings were generally positive is true, the remainder is not.

The residents emphasised that although they acknowledged this was the applicant's position, it was not possible for them to accept it or endorse it uncritically.

Accordingly, the residents emailed the applicant's architects, on 3 May 2018, correcting an error in their note of the meeting. Their correction stated: “*The residents noted the statement that conversion of the first floor function room to residential use was necessary to fund the cost of redevelopment of the basement*

*and ground floors that is necessary to reopen the pub/restaurant. **They could not comment, beyond noting that the first floor function room was at present part of the listed asset of community value. They did not know whether any attempts had yet been made to market the pub/restaurant to prospective operators on the basis that the first floor function room would be part of the pub/restaurant. They were open-minded, but would appreciate being kept informed.***

This was reiterated to the applicant's architects by a further email on 29 October 2018.

The message does not seem to have reached those responsible for drafting the Planning Statement.

The residents specifically questioned whether any attempts had yet been made to market the pub/restaurant to prospective operators on the basis that the first floor function room would be part of the pub/restaurant.

They were aware that the pub/restaurant had recently been marketed on the basis that it was only the ground floor and basement which were available, and that the first floor was excluded: see the attached copy advertisement, from January 2018.

In fact, the applicant negotiated with a restaurant operator to cover the ground floor and basement only.

It is understood that when the applicant first showed the Magdala to this operator, he mentioned a rental of £100k pa for the ground and basement alone. He did say they could have the first floor function room if they were prepared to pay a further £50k. That amount seemed unaffordable and so they said they were not interested in the function room on the first floor if it was prohibitively expensive.

The proposal to them was therefore that a function room type space is created on the ground floor when not being used as a restaurant. However, the way in which this would happen - without undermining the restaurant's viability – was poorly-defined, given the high rental terms demanded by the applicant in the medium and longer term.

On Thursday 2 August 2018, despite the negotiations with the restaurant operator, the local community saw The Magdala itself briefly advertised with physical signage, for the first floor too. The physical signage was removed by Saturday 4 August 2018, i.e., after 1 or 2 days.

Nonetheless, it was clear from 2 August 2018 that there was an unexpected specific action to advertise the availability of the first floor as well as the lower

floors, and that this might be something that the applicant was prepared to enter into, since why else would it be advertised?

On 4 October 2018, the restaurant operator emailed the applicant to say that the conditions of the function room facility on the ground floor were likely to be too onerous on a new operator and that they wished to negotiate a new deal to include the first floor within the new lease so that the asset of community value could be retained where it had been historically. They did not say that they wished to have a reduction in rent from the original agreement, as they were prepared to make an increase on their original offer in order to include the first floor. They received no detailed reply, or agreement to sit down to discuss matters.

One month later, on 9 November 2018, the applicant's representative finally sent a short response to the restaurant operator, stating: "In light of your substantially changed offer DCL have reached out to previously interested parties and as a result my client is currently in negotiations with an established operator at more favourable terms and is considered to be beneficial in securing the long term viability of the asset."

None of this is apparent from the present planning application, or the marketing report.

As we have emphasised above, our key concern is that the fate of this much loved pub and function room should be assessed on the basis of accurate and complete information.

It remains an unexplained puzzle that the applicant did not take up the offer from the restaurant operator to discuss the terms for continued use of the first floor as part of The Magdala, rather than converting it into another residential flat. It would be very welcome if the applicant were to do this, since the opportunity might still be there.

4.3 "With the loss of the function room on the first floor being proposed, residents were still keen to ensure an element of the proposal included the provision of an informal function space, so plans have evolved to contain this on the ground floor. Accordingly, discussions were also held with local residents with regards to how this space could work; the likely frequency of its use and how its shape would allow for maximum seating layouts. This would ensure that the pub's longevity, both as a viable business and as a community space would be safeguarded into the future."

To suggest the residents were ready to accept the loss of the function room is most definitely not the case. The residents have always been steadfast in wanting to keep the first floor function room as part of the pub. They did discuss with the architects, the proposal of an alternative space on the ground floor of the pub, to be

made available at the behest of the pub operator, but could not see how this would be suitable for the wide range of events and functions that took place in the function room, where only a private, separate space would work.

4.4 “*Since these meetings there has been a continuing dialogue with key local residents to keep them updated on the scheme.*”

On Sunday 3 June 2018, a group of residents did attend one short meeting on site with the applicant and with the restaurant operator mentioned above, to look at the possibility for fitting out the ground floor and basement, and incorporating a space for community events if the first floor function room was lost. There were no decisions on that occasion.

There has been no continuing dialogue with the applicant or his advisers.

During an email exchange with the applicant’s architects on 18/19 November 2018, they were asked: *“I haven’t heard from Ori about the Magdala. Do you have any information about discussions with (the restaurant operator mentioned above) or any other operator?”*

The short response given was: *“Nothings decided yet, I’m sure Ori will let you know when things progress further.”*

There has been no contact from the applicant, as at the date of this submission.

5.2 “*As is set out below and in the submitted Marketing Report, a major reason for the Magdala’s continued closure is the undesirability of the first floor function room. Accordingly, and fundamentally, the primary work proposed as part of this Application is the change of use of the function room into a new residential unit.*”

There is no evidence that ‘*a major reason for the Magdala’s continued closure is the undesirability of the first floor function room*’. At least one excellent operator has offered to take it on.

They, and others mentioned in the Marketing Report, complained about the rental terms.

5.3 “*This new unit would then provide the funding necessary to enable the ground floor and basement to be reconfigured, a new higher specification kitchen installed and the interior of the public house itself enhanced.*”

The application does not give the concrete evidence one would expect to see, and which we imagine the council would want and need to see, about the economics of

The Magdala operation, to support an application to sell off a part of it in order to pay for the rest to continue.

5.12/5.13. “The Marketing Report submitted with this application demonstrates that a major reason for the Magdala not being sold is the presence of the first-floor function room. Operators do not wish to take on the premises if the function room is included as it is considered an abortive cost with no certainty of a financial return. Thus, excluding the first-floor function room from the offer and reducing rates proportionality was seen as the first step towards getting the Magdala open again. With the first floor function room identified as an undesirable feature , as above, the opportunity was identified to change its use into a new residential unit. This work would allow for the generation of sufficient funds to allow for internal reconfigurations to both the basement and ground floor of the pub. As part of these works, a wheelchair accessible toilet would be provided on the ground floor and a high specification kitchen is proposed in the basement. These would be provided by the applicant and would ensure the Magdala has maximum desirability on the open market.”

Again, the evidence needed to support this is not provided. The omissions and misstatements in the Planning Statement do not allow one to have confidence in the Marketing Report in any case. It provides no evidence that a major reason for The Magdala not being sold is the presence of the first floor function room. Or that the function room is an, ‘undesirable feature’. Indeed emails from potential operators in Appendix 3, indicated that it is the high rent that makes it unattractive, no mention being made of the function room.

6.19 “Alongside the provision of a function space on the ground floor of the Magdala, Marketing Report submitted as part of this application contains details of public houses with separate function and venue hire facilities within the immediate area that are still operable”.

The only pub in the immediate area with a separate function space is The Roebuck, on Pond Street. The Magdala has been a community hub, and the loss of the function room (and indeed the derelict pub itself for several years now) is a real negative, because it cannot be adequately replaced by other facilities.

The Marketing Report

A lot of the information in this report is incorrect.

Page 1 of the report defines the pub as being on basement, ground floor and first floor levels. They omit to mention that the function room is no longer accessible from the ground floor trading area, but only from the rear residential stairs. It would be very difficult, and impractical for an operator to serve a function on the first floor

with no direct access from the pub or kitchen. With no internal staircase linking the pub and the function room, the inference is that when the pub was refurbished in 2015/16, it was always intended to not include the function room and ultimately for it to be turned into a flat.

DCL claim The Magdala has been marketed since January 3 2018, comprising, *'ground floor with two open plan trading areas with a central bar server. There is a function room at first floor level, basement beer cellar and general storage area'*.

In **Appendix 3**, they show email exchanges with potential operators who have declined the pub, none of which refer to the function room as being the reason they declined, some said it was the high rent. In these emails they include the adverts sent to potential operators, which detail the pub as above.

This is puzzling as we have received information that operators were actually sent adverts offering the pub **without** the function room, *ground and basement only*. (pasted below and attached, this advert was created/modified on January 9 2018). This would make a lot more sense of the comments from the operators, with no references to the function room.

Page 2 Para 2 says that a large number of A4 properties local to The Magdala have come to market over a number of years, due to tenants not being able to trade well. There is only one pub local to The Magdala, now The Cork and Bottle, that has changed hands over a number of years.

Page 2 Para 3 The details of the offer from the 'Restaurant Company' (*the same as the 'restaurant operator' mentioned above*) are incorrect calling in to question the reliability of the details of other offers in this section. The offer was £90,000 for the first five years raising to £100,000 min, for a 20 year lease. The rent free period was to be 12 months. This was for the ground floor and basement but the restaurant operator felt the requirement to have a function space available on the ground floor would affect their trade too much, so offered to negotiate a new deal to include the first floor function room. They did not ask for a reduction in rent, but in fact were prepared to offer extra. This offer was never pursued by the owners.

Page 2 Para 4. To say that, *'further opinion was that operating a public house set over three floors* (The Magdala currently comprises basement, ground floor and first floor) *would not work and would hinder trade'* is not a true reflection of the pub. The basement of The Magdala only has toilets and storage, the ground floor is the pub, and the first floor, as previously mentioned, has no access from the pub. So really, the pub is only on the ground floor.

Page 2 Para 6. In the email responses from prospective operators rejecting The Magdala shown in Appendix 3. none state the function room as being a reason for their rejection. Two mention that the rent is too high, one saying that the rent of £120,000 is, 'crazy'! One offered £45,000. Indeed, in Appendix 4, the similar sized, Amwell Arms, also marketed by DCL, has a rent of £80,000.

There is no evidence in the report to support the statement that no operators would be interested in a deal that included the function room.

Page 3, Para 1, The press release was posted on January 23 not January 11 as stated. It says so at the top!

The ACV

The basement, ground floor and first floor function room are protected by an ACV which expires on August 29. A new ACV application has recently been made.

Conclusion

This application is based on incorrect factual information. The basic argument, which is that the pub is only economically viable if the first floor function room is chopped off and sold off to pay for improvements, is not supported by the financial evidence one would need to see. The Planning Statement, the backbone of the application, relies heavily on the Marketing Report, which is flawed in many ways.

Local residents would like nothing more than to have constructive and open engagement with the applicant about the possibilities for re-opening the Magdala on a viable long-term basis, in a way that preserves it for the local community.

Magdala Rescue

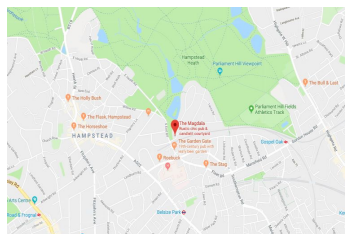


Magdala Tavern, 2a South Hill Park, Hampstead, London, NW3 2SB

Summary

- Free of Tie
- Opposite Hampstead Heath Overground Station
- Shell condition
- Ground and Basement Only
- New Lease Available

LEASEHOLD: Rental Offers Invited



Viewing is strictly by prior appointment with sole agent
Davis Coffey Lyons:

Connie Start
Associate Director
0207 299 0695
cstart@dcl.co.uk