

# **Former Asda Foodstore, Blackett Road, Darlington Planning Statement**

Company Shop Ltd

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## 1.0 **Introduction**

1.1 This Planning Statement has been prepared by Lichfields on behalf of Company Shop Ltd to accompany an application under Section 73 of the Town and Country Planning Act 1990 to vary condition no. 12 attached to planning permission ref. 8/94/679/DM.

### **The Application Proposals**

1.2 The original planning permission related to the development of two retail units, A and B, on land at Blakett Road, Darlington. Each unit was subject to restrictions on the range of goods which could be sold from that unit, set out at condition no. 12 of the operative planning permission.

1.3 Following the departure of Asda from Unit B in 2020, this Section 73 planning application seeks to vary the restrictions imposed by condition no. 12 insofar as they relate to Unit B, in order to facilitate the lawful occupation of the premises by Company Shop Limited.

### **The Scope of this Statement**

1.4 The subject application comprises:

- completed planning application forms and ownership certificates;
- Site Location Plan, prepared by Lichfields;
- a Covering Letter, prepared by Lichfields; and
- this Planning Statement.

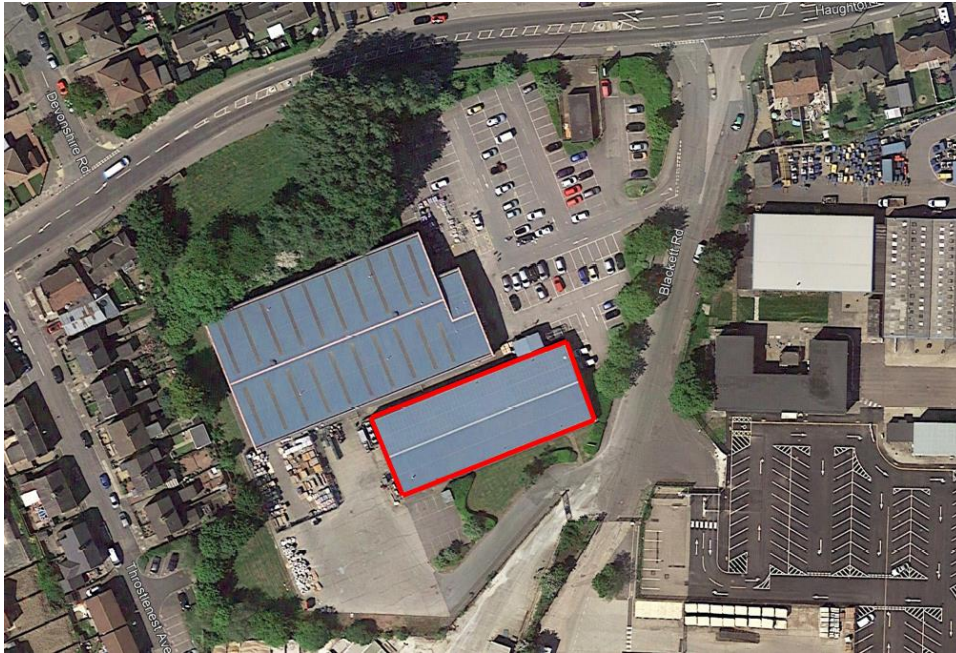
1.5 The business model requirements, and socio-economic benefits, associated with Company Shop's occupation of the unit are unique and described in full within this Planning Statement.

1.6 This Statement will go on to explain how these characteristics comprise material planning considerations, and justify the relaxation of the restrictions imposed by condition 12 on the basis of a 'personal' planning permission granted to Company Shop.

## 2.0 Site and Surroundings

- 2.1 The application site comprises the vacant former Asda store on Blackett Road, Darlington. The unit (Unit B) was constructed in the mid-1990s pursuant to a planning permission granted in 1994, which also included the larger adjacent retail unit now occupied by Wickes (Unit A).

Figure 2.1 The application site, edged in red



Source: Google Earth

- 2.2 Unit B was initially occupied by the discount foodstore operator Netto, before being taken over by Asda in around 2011. The store has now been vacant since 2020.

Figure 2.2 The former Asda foodstore, prior to its closure



Source: Google Earth

- 2.3 The subject unit itself comprises a fairly conventional rectangular foodstore building, with adjacent service yard, trolley bays and service level car parking. Vehicular and pedestrian access is provided directly to Blackett Road, leading to Haughton Road which is a main thoroughfare

through north-eastern Darlington. The immediate surrounding area is characterised by a mix of industrial and residential land uses.

- 2.4 The site itself occupies an 'out of centre' location in planning and retail policy terms, and is allocated as an Employment Area at saved Policy EP2 of the adopted development plan, the Borough of Darlington Local Plan (adopted 1997, with alterations 2001).

## 3.0 **Company Shop's Business Model**

- 3.1 Company Shop is the UK's largest commercial redistributor of surplus products in the country, handling around 81 million items each year, of which over 23,500 tonnes are food, with contractual agreements in place to take branded stock from all major retailers and manufacturers. Operating alongside and with agreement from the major food manufacturers and retailers (including Nestle, Heinz, Marks & Spencer and Tesco), Company Shop redistributes food from warehouses and manufacturers to their stores.
- 3.2 The business operates on the basis of a membership structure. Membership is granted to employees from the food manufacturing industry, NHS, and emergency services, as well as to key workers including, for example, care home workers. During the current pandemic, membership has also been temporarily extended to include those on a means tested benefit. Members are able to visit Company Shop's facilities to purchase highly discounted goods.
- 3.3 The membership structure allows Company Shop and their suppliers to offer discounts which average around 53% against usual retail prices, with discounts on groceries (chilled and frozen foods), toiletries, household goods, perfumes and drinks to those who are eligible.
- 3.4 The stock available in each store changes daily as it consists of oversupplied or unsold goods which are then taken on by Company Shop.
- 3.5 The business model is dependent upon the retail and processing/warehouse facilities being located in discrete yet accessible locations, away from standard retailers to limit competition and presence for those not eligible for membership. It ensures that only those eligible for membership know the location, thus limiting confusion and refusal for those members of the public who are not eligible but may otherwise visit if it were in a traditional high street or other defined centre.
- 3.6 Importantly, the location, membership structure, limited eligibility, nature and customer purchasing limits of the goods stocked means that each outlet has a very limited impact on traditional retailers, both the national multiples and independent stores.
- 3.7 In 2018, Company Shop paid its partners, such as the major retailers and manufacturers mentioned above, £16.5 million for their surplus stock. With this in mind, the business is able to deliver tangible economic benefits to manufacturers and retailers, helping them to improve efficiency and reduce wastage.
- 3.8 Company Shop is also the founder of Community Shop, the UK's first social supermarket chain, which opened its first store to significant media attention in Goldthorpe, Barnsley, in December 2013. Although a sister company, it has a different membership model and is mainly located within the communities they serve; the initiative is aimed at empowering individuals to find work and build stronger communities whilst also offering heavily discounted food and products. For clarity, a Community Shop does not form part of this application proposal.



## 4.0 **The Proposed Variation of Condition**

### **The Operative Planning Permission**

4.1 Based upon a review of Darlington Borough Council's online planning register, the operative planning permission for the unit appears to have been granted in 1994, and comprised the following development:

*“ERECTION OF TWO RETAIL STORES (USE CLASS A1), ONE FOOD, ONE NON-FOOD, TOGETHER WITH APPROPRIATE ACCESS AND SERVICING ARRANGEMENTS, CAR PARKING AND LANDSCAPING.” Ref. No: 8/94/679/DM*

4.2 The permission granted was subject to 16 planning conditions, including a condition (no.12) which reads as follows:

*“The goods sold from the non-food unit (Unit A) shall not include goods within the following categories:*

- a *Food and drink to be consumed off the premises*
- b *Fashion, clothing and footwear*
- c *Books, stationery, other than specialist publications relating to the permitted use of the premises*
- d *Toys, games, handbags and luggage*
- e *Sports equipment and clothing except insofar as they are related to the permitted use of the premises*
- f *Perfume, jewellery and toiletries*

*In addition, no goods within categories (b) – (f) above shall be sold from Unit B on the submitted plans”*

4.3 Although we have not been able to obtain copies of the approved plans, we understand that the former Asda unit is defined as Unit B and therefore the sale of goods defined under categories (b) (c) (d) (e) and (f) is not permitted under the terms of the planning permission. In this context the permission expressly prohibits the use of the unit for the sale of clothing, footwear, perfume, and toiletries.

4.4 Whilst the vast majority of Company Shop's stock is made up of food and drink, some of these restricted goods may infrequently be sold from the unit as and when they are provided by Company Shop's suppliers.

4.5 Notwithstanding the above, from construction, the unit was operated by Netto before being taken over by Asda at some point after 2011. Given the ranges of goods which were typically sold by Netto in the UK, it is very likely that some of the restricted categories of goods were previously sold from the unit (for example toiletries). Furthermore, it is almost certainly the case that toiletries, and potentially some of other restricted categories of goods, were sold by Asda after they took over the store.

### **The Proposed Variation**

4.6 The subject Section 73 application seeks to vary condition 12 in order to remove those goods restrictions described above insofar as they relate to Unit B, in order to enable Company Shop to lawfully sell food, clothing and toiletries from the unit as and when these items may be provided from their suppliers.

4.7 We propose the following revised wording for the condition:

*The goods sold from the non-food unit (Unit A) shall not include goods within the following categories:*

- a *Food and drink to be consumed off the premises*
- b *Fashion, clothing and footwear*
- c *Books, stationery, other than specialist publications relating to the permitted use of the premises*
- d *Toys, games, handbags and luggage*
- e *Sports equipment and clothing except insofar as they are related to the permitted use of the premises*
- f *Perfume, jewellery and toiletries*

*In addition, pursuant to this permission the unrestricted sale of goods from Unit B on the submitted plans and set out in the Planning Statement (Lichfields, February 2021) shall be personal to Company Shop Group only and shall not enure for the benefit of the land. In the event of their vacating the premises the goods restriction for Unit B shall revert to the sale of no goods within categories (b) – (f) above.*

*REASON - In granting this permission the Local Planning Authority has had regard to the special circumstances of the case and wishes to have the opportunity of maintaining control over subsequent use in the event of Company Shop Group vacating the premises.*

4.8 The proposed wording would secure the flexibility required by Company Shop to sell a wider range of goods from the unit on the limited occasions where they are provided with such products by their suppliers. Equally, however, the revised wording would maintain the current restrictions upon the adjacent Unit A (Wickes) and personalise the planning permission so that no future occupier benefits from the relaxed goods restriction.

## 5.0 Material Planning Considerations

### Economic Benefits

- 5.1 Based on estimates provided directly by Company Shop and drawing on the operation of similar sites and facilities elsewhere, the proposed development is expected to support a total of 47 permanent jobs including 7 full-time and 40 part-time roles, equating to **27 full-time equivalent** ('FTE') jobs. Of the 47 jobs generated, the following mix of functions is expected in the breakdown shown at the table below.

Table 5.1 Employment by job function

Job Function	Full-Time employees	Part-time employees	All employees
Management Members	5	-	5
Retail Colleagues	2	40	42
<b>Total Jobs</b>	<b>7</b>	<b>40</b>	<b>47</b>
<b>Total FTEs</b>	<b>7</b>	<b>20</b>	<b>27</b>

Source: Company Shop

- 5.2 It is estimated that the directly-generated 7 FTE jobs will result in a further **10 indirect and induced FTE jobs** at the regional level, including 6 indirect and induced FTE jobs in local services and other firms in the area.
- 5.3 Additionally, Company Shop implements a company-wide apprenticeship framework offering a series of work-related vocational and professional qualifications, with workplace and classroom-based training. As at September 2019, 12 employees had requested to complete apprenticeships during April - June 2019 and the programme is facilitating a further six to eight apprenticeships during the next 12 – 14 months for vocational, technical or professional apprenticeships.

### Retail Planning Policy and a 'Personal' Planning Permission

- 5.4 In light of the unique business model of Company Shop described above, the proposed amendment to the existing planning permission would not give rise to any significant adverse impact upon retail provision within the nearby town or local centres and use of the proposed Company Shop store would also be restricted to members only. Indeed, the location, membership structure, limited eligibility, nature and customer purchasing limits of the goods stocked by Company Shop means that each outlet has a very limited impact on traditional retailers, both the national multiples and independent stores.
- 5.5 Moreover, all local in-centre retail provision will, until recently, have traded in conjunction with the Asda store which formerly occupied the site.
- 5.6 The occupation of the unit by Company Shop also offers clear and tangible benefits to the local community above and beyond those delivered by a more conventional foodstore operator.
- 5.7 On this basis, and as described at Section 4, the applicant is content for any varied planning condition to limit the relaxation of the goods restriction for Unit B on a 'personal' basis to Company Shop only. This would ensure that, should Company Shop vacate the unit in future, then the planning condition would require any other operator to abide by the same goods restriction as the original planning permission. This would prevent the flexibility afforded by any varied planning permission from applying to any other retail operator in future, and thereby remove any possibility of the subject proposals having a significant adverse impact upon any in-centre retail provision.

## 6.0 Conclusions

- 6.1 This Planning Statement has been prepared by Lichfields on behalf of Company Shop Ltd to accompany an application under Section 73 of the Town and Country Planning Act 1990 to vary condition no. 12 attached to planning permission ref. 8/94/679/DM.
- 6.2 The original planning permission related to the development of two retail units, A and B, on land at Blakett Road, Darlington. Each unit was subject to restrictions on the range of goods which could be sold from that unit, set out at condition no. 12 of the operative planning permission. Following the departure of Asda from Unit B in 2020, the subject Section 73 planning application seeks to vary the restrictions imposed by condition no. 12 insofar as they relate to Unit B, in order to enable Company Shop to sell its full range of goods.
- 6.3 Company Shop is the UK's largest commercial redistributor of surplus products in the country, handling around 81 million items each year, of which over 23,500 tonnes are food, with contractual agreements in place to take branded stock from all major retailers and manufacturers. Operating alongside and with agreement from the major food manufacturers and retailers, Company Shop redistributes food from warehouses and manufacturers to their stores. The business operates on the basis of a membership structure. Membership is granted to employees from the food manufacturing industry, NHS, and emergency services, as well as to key workers including, for example, care home workers. During the current pandemic, membership has also been temporarily extended to include those on a means tested benefit. Members are able to visit Company Shop's facilities to purchase highly discounted goods.
- 6.4 The membership structure allows Company Shop and their suppliers to offer discounts which average around 53% against usual retail prices, with discounts on groceries, toiletries, household goods, perfumes and drinks to those who are eligible. The actual stock available in each store changes daily.
- 6.5 This business model is dependent upon Company Shop's facilities being located in discrete yet accessible locations, away from standard retailers to limit competition and presence for those not eligible for membership. It ensures that only those eligible for membership know the location, thus limiting confusion and refusal for those members of the public who are not eligible but may otherwise visit if it were in a traditional high street or other defined centre.
- 6.6 Importantly, the location, membership structure, limited eligibility, nature and customer purchasing limits of the goods stocked means that each outlet has a very limited impact on traditional retailers, both the national multiples and independent stores. In light of these unique characteristics of Company Shop's business model, the proposed variation of condition would be limited on a personal basis to Company Shop only. Equally, however, the revised condition would maintain the current restrictions upon the adjacent Unit A (Wickes) and no future occupier of Unit B would benefit from the relaxed goods restriction.
- 6.7 The proposed occupation of the vacant unit by Company Shop would also lead to the creation of 47 new permanent jobs.
- 6.8 On this basis, the subject application proposals would not give rise to a significant adverse impact upon any in centre retail provision and it is respectfully requested that the local planning authority approves the application.



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