

CAPÍTULO 4

PLANNING AUTHORITY RESPONSES TO THE ENTRY OF NON RETAIL USES INTO SHOPPING CENTRES: A LONGITUDINAL STUDY, 1970-2002

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ABSTRACT

The land use planning system in the UK has evolved over a period of over 60 years and is an example of sustained government intervention in a free market economy. This paper assesses the responses of Local Planning Authorities to the entry of non retail uses (financial services, leisure, real estate agencies, restaurants and betting offices) within existing shopping areas and centres over the period 1970 to 2002 based on two unique surveys of Local Planning Authorities between 1984 and 2002. But the planning system is only one of the factors that are at work in the retail environment.

INTRODUCTION

The British retail sector has undergone revolutionary change over the past thirty years although such change needs to be placed in the context of continuing dynamic changes over a very long time period stretching back hundreds of years. The retail environment has two major forces at work: that of the market itself and the policies and guidance of central and local government. These two forces are often in opposition, indeed so much so that it has been stated:

“the potential conflicts that might arise between interest groups may be seen as the *raison d’être* of retail planning in a free market or mixed economy.” Potter (1982: 205).

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The land use planning system in the UK has been the major instrument of change within shopping environments since its inception in the 1940s and is an example of sustained government intervention in the market economy over 60 years but the pressures that mould and shape the retail environment are only partly controlled and influenced by the planning laws and planners themselves.

This paper reports some of the research undertaken by the authors which has assessed the responses of local planning authorities to the entry of non retail uses within existing shopping areas over the period 1970 to 2002. The paper begins by reviewing the existing non retail debate and the desirability of including non retail uses such as banking, real estate and restaurants in city centres, and goes on to assess the effect of changes in planning regulations such as the Use Classes Order both before and since revisions in 1987 on the location of non retail uses. The paper is based on a unique insight derived from two national surveys of local planning authorities in 1984-88 and again in 1999-2002 carried out by the authors. In undertaking these surveys a longitudinal study has been undertaken over a long period of time.

PLANNING AND RETAIL DEVELOPMENT

Some writers regard locational changes as the most important retail change, resulting in the increasing suburbanisation of retail activity and the growth of large edge of town and out of town stores (Jones, 1979). These changes have resulted as much from changes in consumer behaviour as the desire of retail companies to reduce operating costs via economies of scale through the use of larger retail premises and more economical means of selling goods (Guy, 1980: 3). The movement towards green field sites has been accompanied by a well-documented decline in the small local shop and the rise of large retail groups (Dawson and Kirby, 1977; Seeley, 1976; Dawson and Kirby, 1979; Akehurst, 1983, Akehurst and Alexander, 1995, Alexander, 1995). The changes in retailing have been paralleled with equally dramatic changes in consumer behaviour brought about in part by rising real incomes, ever-increasing use of the car and shopping as a favoured leisure activity.

Whether government should regulate and direct the retail system is open to much debate but the reality in the UK is that retail environments appear to thrive in most locations despite or because of central government and local government intervention (Burt, Hallsworth and Reynolds, 1997). This does not mean that conflict does not take place and changes in laws and policies can be a major cause of instabilities and pressures in the retail environment as one report has noted:

“Towns change slowly, but retailers don’t...Towns change slowly, but planners don’t need to.” National Retail Forum (2001)

Previous studies have generally concentrated on the conflicts between new retail developments such as retail warehouses (Gibbs, 1981), regional shopping centres and out of town superstore developments (Davies, 1988). Unfortunately

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there has been little recent research into the planning conflicts of existing quasi-retailing uses that have been located and become well-established in shopping centres. Resolution of conflict is one of the roles of the planning authority and specifically the role of the planner in:

“reconciling conflicting objectives in order to achieve a balance under which the different groups in the community are provided with the greatest possible opportunities, choice and satisfaction.” Mills, (1974: 61)

Alder (1979:26) regards the planner’s role as “not merely as that of an umpire to resolve disputes over conflicting claims in respect of land use, but also as directors of resources in that area”. The planning profession has been criticised for their apparent lack of response to retail change (Burt, Dawson and Sparks, 1983, and Kirby, 1982) which has resulted in lengthy bureaucratic planning delays, restrictive policies and accusations that the planner is “one step behind reality” and lacking the basics of commercial understanding (Dawson, 1980: 198). Schiller views the planner as “having the job of judging retailers” demands using non commercial criteria (Schiller, 1979: 10). Tomalin ((1998: 94) goes further:

“...as long as the forces of the market demand continue to drive the provision of retail space in Britain, planners will be unable to control the pace of change or the nature of the responded. The planning profession needs to understand the life cycle of the town centre in order to plan for growth and decline.”

But despite these criticisms no other country in Western Europe exercises such strict planning controls over retailing. The main instrument of control is the Town and Country Planning Act 1947 and its many amendments with supplementary guidance and definitions provided within Planning Policy Guidance Notes. The Act has been seen as the “Great Watershed or Divide” of British planning control (Heap, 1975: 7) as it set out to establish a national policy for planning, so replacing the regional variations which existed at the time. The Act conferred wide discretionary powers upon local and central government in order to “prohibit the undesirable uses of land by private landowners and more restrictive powers to take positive steps to ensure that land for projects which are thought to be desirable and in the public interest.” (Alder, 1979: 1). From 1947 planning permission was required by any potential developer in order to control, guide and limit development within the whole country.

The meaning of “development” was defined in the Town and Country Act 1971 as the “carrying out of the building, engineering, mining or other operation in, over and under land or making any material change in the use of buildings or other” (Department of Environment, 1971). This definition has created considerable controversy because of the widely varying interpretations used by agencies to suit their own purpose and differences of interpretation of successive Use Classes Orders. In addition, the definition of “development” has placed particular emphasis on the term “change of use” which is also open to interpretation. In the 1971 revision of the 1947 Act the word “material” was used to qualify the change of use and this too has been open to interpretation (McAuslan, 1975: 519). It becomes a matter of degree as to when a change is

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material or not (Lomnicki, 1973: 22). Meanwhile Heap (1991: 15) has expressed the view that “it may be difficult to define theoretically when exactly a material change has occurred, it will be readily recognisable when it occurs in practice”. Brown (1975) argues that the change of use should be regarded in its effects. So, even though the material issue was raised again by the revision of the Town and Country Planning Act 1990, the British Government has provided no clear guidance of the material definition and it has been left to the Law Courts to provide interpretation through case law. Some commentators have suggested that “...Real effectiveness of development is measured by what does not happen.” Gilg and Kelly (1996). It is against this unclear state of affairs that the planners and inspectors from the Office of the Deputy Prime Minister (formerly Department of Environment) have to contend.

Another feature of the Town and Country Planning Act is to allow the responsible Government Minister to specify a schedule of land by means of a series of Use Classes Orders (1948, 1955, 1963, 1972 and 1987). One of the main purposes of the Use Classes Order is to declare certain changes within each class of use as “not material”, that is, not involving development and therefore not requiring planning permission for change of use. This enables the planners to carry out their job with the minimum of judicial interference. The Use Classes Order (1972) specified 18 classes of differing development, ranging from mineral extraction to the amusement arcade. A change of use which falls within one of the 18 specified classes requires no planning permission. For example, a change of use from a Post Office to a bank would require planning permission whereas a change of use from a building society to a bank would not as they are in the same class. The Use Classes Order (1972) has been a major cause of litigation between local authorities, developers and the law courts. Over time the 1972 Order was not keeping up with changes in the retail environment and it was replaced with the Use Classes Order 1987. Three new classes were defined: Class A1: Shops; Class A2: Financial and Professional Services; and Class A3: Food and Drink. This change was viewed as way of deregulation, and a simplification of the planning system (Redman, 1989: 2). By late 2001 the Government issued a Green Paper “Planning: Delivering a Fundamental Change” (Department for Transport, Local Government and the Regions, 2001). The ramifications of the proposed changes are outside the scope of this present paper.

NON RETAIL USES DEVELOPMENT AND CONFLICT

British non retail uses or quasi-retail uses such as banks, building societies, restaurants and real estate agencies have undergone dramatic and turbulent change over the last 30 years, much more so than that of their retail counterparts. The entry of non retail uses into shopping centres has occurred at varying rates, timescales and spatial distributions. There appears to have been two “waves” or generations of non retail uses: the first generation starting in the late 1970s

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consisting of the more commercial and formal type from the financial services and professional services sectors and the second generation, starting in the 1980s of more leisure oriented uses such as fast food outlets and amusement centres. Not all non retail uses have however, been expanding and increasing in number – dry cleaners and shoe repairers for example, are in decline. In addition, many financial services companies have rationalised operations and merged, resulting in a massive closure of branches while fast food outlets such as McDonald's and Burger King have grown considerably. So this diversity of uses which have been brought together by a fluke of planning law all have very different profiles and growth patterns. At first sight these uses appear to have little in common except that they are in the Use Classes Order and they wish to locate in the shopping environment but external factors appear to have exerted far more changes than any planning law or shopping policy adopted by a Local Planning Authority. This fact is remarkable and needed researching.

Whilst it can be considered that non retail uses have a role to play in the shopping environment (a bank for instance, enables the retrieval of money in order to carry out the function of shopping) nevertheless the necessity of the sheer numbers and volume of banks and building societies in providing this service means that they are often locating within the same areas within a shopping centre and create effectively “dead frontages” which may adversely affect the character and liveliness of the shopping centre. This concentration of dead frontage is often quoted at planning appeals. In the main it is left to the discretion of the planners and ultimately local councils to allow or refuse development of non retail use in prime retail sites as the law states that all cases must be considered “on their merits” yet “they must have regard to the provisions of the development plans and take on other material consideration into account” (Statutory Instrument No. 1385, The Town and Country Planning Act, 1972). Local Planning Authorities are required to demonstrate when refusing an application that the proposed development would cause “demonstrable harm to interests of acknowledged importance” (Department of the Environment, 1992).

METHODOLOGY

A methodology was required to establish the attitudes and response of planning professionals to the introduction of non retail uses within shopping centres, and specifically two players from the planning community: the Local Planning Authority and the Planning Inspectorate. The Local Planning Authorities have some autonomy to structure the retail environments within their control and the Planning Inspectorate interprets Government retail policy and advice as a result of unresolved conflict with the Local Planning Authority. The 1980s witnessed a large intrusion of non retail uses into shopping streets. The attitudes of Local Planning Authorities towards non retail uses varied although there was little evidence to substantiate or refute this. The work undertaken by Fernie and Carrick

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(1981a) and (1981b) provided some information from Local Planning Authorities regarding their attitudes towards “quasi retailing”. Their survey took the form of an open standard letter to all Chief Planning Officers in England, Wales and Scotland and provided some information following a 60% response rate but methodological problems resulted in difficulties of data collection and accumulation.

By 1984 two research methods had been adopted, namely the census of current attitudes towards non retail use (Ferne and Carrick, 1983) and the case study approach either in specified centres by the Unit for Retail Planning Information (URPI) of the town centres of Reading, Huddersfield, East Ham (London) and in two smaller district or suburban centres of Caversham (Reading) and Holmfirth (Huddersfield) URPI (1980), (1981a), and (1981b), Leeds (Clarke, 1984) and a regional study of major shopping centres in the South West (Doidge, 1985). The case study approach appears to have had little rationale for the selection of areas for study other than they were near where the researchers were based, while the URPI studies did not consider the planning response at all. Consequently the case study approach was rejected and it was felt that yet another regional or town study would add little to our knowledge. There was in addition, no valid basis upon which a representative region or town could have been selected, so it was decided to undertake a national survey of the planning community. This survey would firstly, record the planning authority response to the entry of non retail use into their shopping centres in order to ascertain whether this entry was an issue; secondly, whether their opinion had changed since the Ferne and Carrick survey reported in 1983 and thirdly establish exactly what uses and in what size of centre were non retail uses seen to be expanding differentiating between shopping centres of less than 50 outlets and those of more than 50.

In May 1984 the questionnaire was mailed to all the 401 Local Planning Authorities in England and Wales. Scotland was excluded, as being a separate country it operates in a different administrative planning structure (Keaty and Midwinter, 1983: 73). The survey brought a 67% response rate (261) by the Local Planning Authorities (see Table 1). A follow up questionnaire to non respondents was not successful and it was apparent that a non response was primarily due to lack of time in Local Planning Authorities. Analyses of non responses did not reveal significant non response bias. So that comparison could be drawn with the 1984 survey, and to extend the longitudinal study, a slightly modified questionnaire was distributed in 1998. The response rate to the postal questionnaire was 50.2% (206 replies) of which 184 Chief Planning Officers (44.9%) gave a full reply.

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TABLE 1.
LOCAL PLANNING AUTHORITIES POSITIVE RESPONSES BY
ECONOMIC REGION

| Economic Region | Number of Responding Planning Authorities (1998) | Number of Responding Local Planning Authorities (1984) | Number of Responding Planning Authorities (1980)* |
|----------------------|--|--|---|
| Northern | 14 | 19 | 17 |
| Yorkshire/Humberside | 10 | 18 | 17 |
| East Midlands | 23 | 31 | 25 |
| East Anglia | 10 | 12 | 12 |
| South East | 55 | 60 | 63 |
| South West | 18 | 30 | 29 |
| West Midlands | 19 | 26 | 23 |
| North West | 16 | 19 | 24 |
| Wales | 6 | 26 | 24 |
| Greater London | 13 | 20 | - |
| Scotland | - | - | 30 |
| Total | 184 | 261 | 264 |

* Fernie and Carrick (1983).

Response rates varied significantly by Economic Region but were particularly poor from the South West and Wales (both primarily rural regions). Local government reorganisation throughout England and Wales was possibly a contributing factor to the lower response rate in 1998-2002 as many authorities were still coming to terms with their new responsibilities. Of the 22 authorities (1.3%) that replied but did not complete the questionnaire the main reason stated was a lack of resources available to the department or "statutory workload". The 169 Local Planning Authorities that did not respond at all were from all economic regions.

The second primary data source was the attitudes of the Planning Inspectorate to the numerous appeals that had arisen with the entry of non retail uses. Until the research reported in this paper, studies into planning appeals decisions have been very limited (McNamara and Healey, 1985; Lamb, 1987a, 1987b, 1987c; Murray, 1987, Brotherton, 1993; Punter and Bell, 1997). The planning appeals that were examined came from two main sources: URPI and the Compass Organisation (the Computerised Planning Appeals Service).

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SUMMARY RESULTS OF THE SURVEYS

The 1984 survey was designed to focus on three aspects of the growth of non retail use: reasons for Local Planning Authority concern; Local Planning Authorities' responses in terms of policies adopted and research undertaken, and which non retail uses were viewed by the authorities as having caused the greatest intrusion, and where and when this intrusion had occurred.

The 1984 survey received 261 replies (67%). Just over three-quarters (75.9%) of participating authorities thought that growth was a "cause for concern" within their area, a figure which substantiates many of the claims made previously from a variety of sources. It was the largest shopping centres (those with more than 50 outlets) where "quasi retail growth" was felt to have greatest impact as reported by 37.9% (97) of authorities. Only 10 authorities expressed concern about the growth of non retail uses in all areas of smaller shopping centres and 46 authorities (17.6%) expressed concern in some of their smaller shopping areas. However for 23.8% (63) of authorities it was felt that the growth of non retail uses was not a cause for concern and indeed of this number, 15 felt that it had never been a problem. Only 15 authorities (5.8%) felt that their plans and policies had been totally effective in dealing with the intrusion of non retail uses.

TABLE 2.
REASONS WHY LOCAL PLANNING AUTHORITIES BELIEVE NON
RETAIL USES TO BE CAUSING CONCERN

| Reason | Number | % of Total |
|---|--------|------------|
| Loss of retail units and amenity | 109 | 41.8 |
| Change of character of shopping street/centre | 95 | 36.4 |
| Creation of dead frontage | 87 | 33.3 |
| Adverse effect on commercial viability | 80 | 30.7 |
| Loss of floorspace | 22 | 8.4 |
| Other reasons* | 151 | 57.9 |

* Other reasons include: non retail outlets create rubbish; cause vandalism; attract a certain type of customer; have unsociable shop hours; increase the car parking in the area; increase land values and rentals and generally leads to a less compact shopping centre,

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TABLE 3.
REASONS WHY LOCAL PLANNING AUTHORITIES BELIEVE NON
RETAIL USES TO BE OF NO CONCERN WITHIN THEIR AUTHORITY

| Reason | Number | % of Total |
|---|--------|------------|
| Small size of the shopping centre | 17 | 6.5 |
| No applications for change in use received | 16 | 6.1 |
| Effect of local plans and policies | 15 | 5.8 |
| No successful applicant for planning permission | 7 | 5.7 |
| Other | 34 | 13.1 |

There is no evidence to suggest that non retail uses have ignored the smaller shopping centres and indeed some service outlets, for example, cafes and hair salons, actually favour the smaller centre. One of the most notable results of the 1984 survey was that local authorities adopted a wide range and variety of policies regarding the location of non retail outlets rather than specify a single blanket policy throughout the authority.

TABLE 4.
POLICIES ADOPTED BY LOCAL PLANNING AUTHORITIES IN
RESPONSE TO LOCATION OF NON RETAIL USES IN SHOPPING AREAS

| Policy option | Number of Local Authorities (1984) | Number of Local Authorities (1980)* |
|----------------------------------|------------------------------------|-------------------------------------|
| Outright resistance | 15 | 65 |
| Specified areas | 175 | 57 |
| Frontage quotas | 72 | 35 |
| Floorspace quotas | 33 | 5 |
| Restrictions of use | 5 | 3 |
| Restriction of properties | 89 | 20 |
| Upper floor Directives | 107 | 66 |
| Appearance conditions | 108 | 28 |
| Informal policies of restriction | 68 | 32 |
| Merits | 104 | 102 |
| other | 30 | - |

*Source: Fernie and Carrick (1983).

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Since the 1980s there have been major changes within retailing and the revised Use Classes Order (1987) had been introduced together with a major restructuring of local government where Unitary Authorities were introduced and boundaries changed. Since 1995 there has been a phased introduction of 46 single tier unitary authorities in England and 22 unitary authorities in Wales. Whilst exact geographic boundary comparison between 1984 and 1999 is not possible, comparison can be made by Economic Areas as defined by the Office for National Statistics.

In some Local Planning authorities there has been a comprehensive revision of their plans and policies, whilst others updated these as a result of the Use Classes Order (1987) and revised official Government guidance in the form of Planning Guidance (PPGs) by central government. In order to ascertain what, if any, changes in policy and attitude had been adopted by Local Planning Authorities since 1984 especially with regard to non retail uses, a new national questionnaire was sent to all English and Welsh Chief Planning Officers in November 1998.

Of the 184 positive replies received for the 1998 survey, 58% (107) felt that non retail uses were areas of concern within the Local Planning Authority compared with 76% (198) fifteen years earlier. Whilst no exact comparison can be drawn it shows an indicative marked decline in concern. The reasons for this decline in concern include:

- The changes in the Use Classes Order (1987)
- Reduction of the branch network in the financial sector
- Some non retail uses in the High Street have acquired a general respectability and general acceptability
- Non retail uses seen in a new light of offering a service that complements the shopping environment and enhances the consumer shopping trip
- Policies employed by many authorities have been in place for some time and if regarded as successful, may make any concerns negligible.

With reference to Table 5, when concern is analysed by Economic Area definite regional differences appear across the country. Of the Local Planning Authorities that responded, in three economic regions more than 70% of respondents thought that non retail uses to be of concern within the authority at present.

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TABLE 5.
PRESENT CONCERN REGARDING NON RETAIL USES BY ECONOMIC
REGION

| Economic Region | Number of LPA expressing concern (1998) | Total Number of LPA (1998) | % Response | Number of LPA expressing concern (1984) | Total Number of LPA (1984) | % Response |
|----------------------|---|----------------------------|------------|---|----------------------------|------------|
| Northern | 8 | 14 | 57.1 | 13 | 19 | 68.4 |
| Yorkshire/Humberside | 7 | 10 | 70.0 | 15 | 18 | 83.3 |
| East Midlands | 10 | 23 | 43.5 | 25 | 31 | 80.6 |
| East Anglia | 3 | 10 | 30.0 | 7 | 12 | 58.3 |
| South East | 39 | 55 | 70.9 | 55 | 60 | 91.6 |
| South West | 8 | 18 | 44.4 | 13 | 30 | 43.3 |
| West Midlands | 10 | 19 | 52.6 | 21 | 26 | 80.7 |
| North West | 9 | 16 | 56.3 | 14 | 19 | 73.7 |
| Wales | 3 | 6 | 50.0 | 18 | 26 | 69.2 |
| London | 10 | 13 | 76.9 | 17 | 20 | 85.0 |
| Total | 107 | 184 | | 198 | 261 | |

It is in Southern England with its dense population and continued high growth of population that the main thrust of the intrusion of non retail uses has been felt. From the surveys it is clear that more rural authorities have not experienced the intrusion to the same extent. Of the Local Planning Authorities that are experiencing contention with the intrusion of non retail uses by far the majority (1001, 94.4%) regard the intrusion to be taking place in centres of more than 50 outlets compared with 71.2% (185) in the previous 1984 study. This represents a major decrease in real terms but an increase in percentage terms. See Table 6.

TABLE 6.
SURVEY COMPARISON OF LOCATION OF PRESENT CONCERN

| Location | 1998 Survey | 1984 Survey |
|---|-------------|-------------|
| All shopping centres throughout the authority | 36 (33.6%) | 33 (12.6%) |
| All shopping centres of 50 or more outlets | 28 (26.2%) | 97 (37.2%) |
| Some shopping centres of 50 or more outlets | 37 (34.6%) | 9 (3.4%) |
| All shopping centres of less than 50 outlets | 2 (1.9%) | 10 (3.8%) |
| Some shopping centres of less than 50 outlets | 4 (3.7%) | 46 (17.6%) |
| Total | 107 | 195 |

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Many local authorities do not undertake surveys on the smaller shopping centres and the response could be based on “feeling” and impression rather than firm evidence. Restrictions, mainly of a financial nature, mean that planners usually collect the bare minimum of statistics and information. One writer has said that Councils and Local Planning Authorities “attempt to plan retailing in a data vacuum” (Sparks, 1996: 89). Indeed Sparks goes further to say “The lack of spatial data has produced a dysfunctional planning system and has placed local authorities at a major disadvantage” (Sparks, 1996: 93).

Table 7 shows that the reasons why Local Planning Authorities regard non retail uses as an area for concern; these reasons are wide and various. By far the majority (42.9%) felt that the reasons for concern was the adverse effect of the non retail use on the vitality of shopping centres within their authorities, whereas back in 1984 80 Local Planning Authorities (30.7% of the survey) felt this was an area for concern but fourth in listing behind loss of retail units and amenity, change in character of the shopping centre and the creation of dead frontage.

TABLE 7.
REASONS WHY LOCAL PLANNING AUTHORITIES BELIEVE NON
RETAIL USES TO BE OF CONCERN WITHIN THEIR AUTHORITY

| Reason | Total | % |
|---|-------|------|
| Adverse effect on the vitality of the shopping centre | 46 | 42.9 |
| Dilution of retail activity | 39 | 36.4 |
| Noise and disturbance to A£ uses | 12 | 1.2 |
| Loss of retail provision | 5 | 4.7 |
| Dead frontage | 4 | 3.7 |

Contrasts with the 1984 survey are considerable and there is a definite shift in opinion as to the reasons why non retail uses are causing concern with the authorities. Loss of retail provision was a cause highlighted by five authorities in 1998 whereas in 1984 109 authorities cited this as their main reason. It is often claimed but with little substantiated evidence that non retail uses dilute retail activity. It comes as no surprise that of 1,786 appeals examined between 1970 and 2000 the issue of vitality and loss of retail units was broached in 667 (37.3%).

Table 8 shows the summary reasons why non retail uses are of no concern within an Authority cited by 66 (46.8%) of responding Local Planning Authorities.

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TABLE 8.
REASONS WHY NON RETAIL USES ARE OF NO CONCERN
WITHIN AN AUTHORITY

| Reason for No Concern | Number of LPA |
|--|---------------|
| Policies of the Local Planning Authority | 19 |
| Strong Retail Pressure | 18 |
| Lack of Applications | 12 |
| Complementary Nature of Non Retail Uses | 1 |
| Building Society Mergers. | 6 |

In Local Planning Authorities which cited reasons why non retail uses have never been a concern, the following reasons were dominant:

- No pressure for non retail uses
- Pressure for retail activities is very strong
- Policies of the Local Planning Authority
- New town
- Difficulty in attracting investment

Finally, in this brief summary of certain parts of the study, Table 9 shows which policies have been adopted by Local Planning Authorities in response to the location of non retail uses in shopping centres. Few LPAs have employed a policy of outright resistance to non retail use. This has become less popular as an option over the period 1970 to 2002 probably due to the limited success at the appeal stage and a heavy-handed negative approach that the planning authorities have adopted to the ever-changing retail environment.

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TABLE 9.
POLICIES ADOPTED BY LOCAL PLANNING AUTHORITIES IN
RESPONSE TO LOCATION OF NON RETAIL USES IN SHOPPING AREAS

| Policy Option | Number of LPA (1998) | Number of LPA (1984) | Number of LPA (1980)* |
|----------------------------------|----------------------|----------------------|-----------------------|
| Outright Resistance | 7 | 15 | 65 |
| Specified Areas | 76 | 175 | 57 |
| Frontage Quotas | 78 | 72 | 35 |
| Floorspace Quotas | 8 | 33 | 5 |
| Unit Quotas | 34 | - | - |
| Restrictions of Use | 66 | 5 | 3 |
| Restriction of Properties | 15 | 89 | 20 |
| Upper Floor Directives | 50 | 107 | 66 |
| Appearance Conditions | 49 | 108 | 28 |
| Informal Policies of Restriction | 6 | 68 | 32 |
| Merits | 23 | 104 | 102 |
| Other | 12 | 30 | - |

*Source: Fernie and Carrick (1983).

SUMMARY AND CONCLUSIONS

Local Planning Authorities attitudes towards non retail uses has significantly changed over the time period of the research, moving from one of open hostility towards some uses (notably financial services) to a gradual acceptance and recognition of the complementary nature of non retail uses in the shopping environment. Three quarters of the respondents to both national surveys considered that non retail uses were of some ‘‘concern’’ within their authority whilst in both surveys the response of the Local Planning Authority in terms of policy had definitely changed over the period 1980 to 2002.

The survey in 1984, following on from Fernie and Carrick (1981), showed that the Local Planning Authorities were very tentative and largely negative about the entry of non retail uses into their shopping environments and that many of these uses and their impact were very much unknown. There was a presumption that financial services in particular, should be encouraged to locate in secondary shopping areas despite the complementary nature argument and their ability to pay for prime retail locations. By 1999 Local Planning Authorities had moderated their attitudes towards non retail uses and while financial services were not particularly welcomed in the 1980s, by the later 1990s non retail uses such as leisure services have by and large been welcomed into shopping centres and viewed as positively enhancing the shopping experience.

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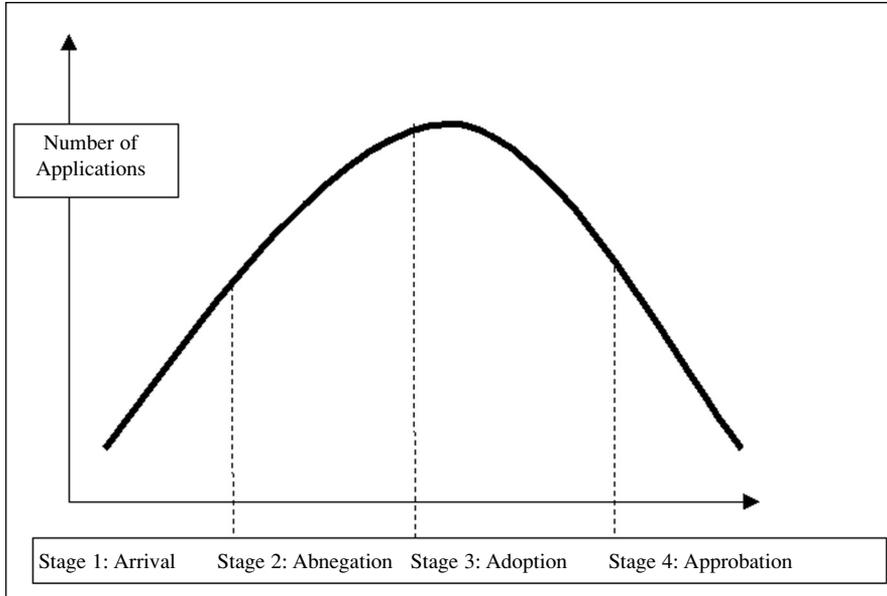
Over the period of this study (1984-2002) there has been constant movement and change within non retail uses. The retail environment is “no longer a concentration for retail provision” Davies and Ward (2002: 202) but considered by some to be “important meeting locations for young and old” Bloch, Ridgway and Dawson (1994). The constant variation in main uses and their changes over time have been one of the main factors with which Local Planning Authorities have had to contend. It would have been asking a lot of Planning Authorities to take account of all changes that have occurred and will occur in shopping centres under their auspices and jurisdiction, let alone keep their policies adaptable enough to keep abreast of all changes. It is this facet that is central to retail change.

The treatment of non retail uses by Local Planning Authorities is not uniform across the country. Building societies in the main were consigned to secondary locations and amusement centres were initially universally condemned while A3 uses have been largely welcomed. Attitudes of the Local Planning Authorities and Government Planning Inspectors have clearly changed between 1980 and 2002. While financial services have not been welcomed to prime retail sites and have been encouraged to locate in secondary positions, ATMs are however acceptable in shopping centres to enable consumer access to their money.

Studies of planning appeals for non retail uses shows that in the majority of cases (69%) the appeal is successful much to the frustration of both the non retail use and the Local Planning Authority alike. There appears to have been developed a two-stage process model that the Local Planning Authorities have in most cases unwittingly appear to adopt and uphold. With the introduction of any “new” retail or non retail use there is an initial period of resistance to that use. Over time resistance is transformed often due to the experience at the planning appeal stage, the increase in knowledge of the use and its effects on the shopping centre. Resistance gives way to acceptance with associated policies to match. This is the same scenario that the superstores and out-of-town warehouses faced in the 1970s and 1980s from the planners. The only difference is the degree of voracity of the Local Planning Authorities. The introduction of “new” retail intruders leads to a definite cycle of events based on the axis of time and number of planning applications, which we call the “A Cycle” Figure 1.

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FIGURE 1.
"A" NEW USE AND PLANNING CYCLE



Stage 1: Arrival

The new non retail use locates within the shopping centre in increasing numbers and the number of planning applications rises steadily as the predominant attitude of the Local Planning Authority is either to disallow the use as in many cases there has been little or no research and the Local Plan does not allow for the new use or allow the use.

Stage 2: Abnegation

The predominant policy of the new retail use (s) is to expand, leading to an increasing demand for this kind of location in shopping centres and an increasing resistance from the Local Planning authorities. The number of appeals increases dramatically. As there has been little research or evidence that the use will harm the vitality of the centre and in line with current Government policy guidance, an increasing number of appeals are successful. The presence of the new use is seen and felt within shopping centres on a national basis.

Stage 3: Adoption

Local Planning Authorities change their attitude towards the new use due to the length of time that the use has now been located in the shopping centre, the

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consistent loss at planning appeal, the increase in knowledge about the use and its impact often associated with a change in the Local Plan. Indeed the Local Planning Authority often welcomes the new use whilst either specifying locations where the use would be welcome or being more specific as to conditions and locations where the use would be more acceptable within the shopping centre. Often at this time either saturation of the market has occurred or as in the case of the first wave non retail use, globalisation of markets has started. In many cases the Local Planning Authorities are slow to react.

Stage 4: Approbation

As time passes, with more knowledge of the use, there appears to be an acceptance of the use by the Local Planning Authority and in some cases, actual positive discrimination towards the new use is experienced. Local Plans then are updated to either actively encourage the use or to clearly state where the location of the use would be acceptable within the Authority.

That non retail uses do offer a complementary service that can enhance many shopping trips is now widely accepted by Local Planning Authorities. It took many years for the government to recognise this fact but in 1993 it issued the PPG6: Town Centre and Redevelopment, which states that Local Planning Authorities should “sustain and enhance the viability and vitality of town centres” Department of the Environment (1996).

The larger shopping centres (over 50 outlets) have borne the brunt of non retail intrusion. The threat to the smaller centre and those of lower order in the hierarchy never materialised as forecast by Doidge (1985). The Local Planning authority of the 1980s clearly showed that the non retail uses (primarily those of the financial services sector) were of major concern. Their main response was to prohibit the use in primary or central shopping areas with a range of policies. Both national surveys of Local Planning Authorities show that in the 1980s and 1990s shopping centres of less than 50 outlets did not appear to be a cause for concern for Local Planning Authorities nor had they experienced an increase in the number of planning applications from non retail uses between 1984 and 2002.

The intrusion of non retail uses has clearly not been uniform throughout the UK between 1984 and 2002, and there exists considerable regional variation. London and the South East of England appears to have experienced the main intrusion of non retail uses. This is not surprising since this region has the greatest concentration of population, highest per capita incomes and witnessed the greatest expansion of financial services branches. Local Planning Authorities have introduced a wide range of policies in response or in relation to the introduction and containment of non retail uses. Naturally these policies have changed over time in response to the changing retail environment and success or otherwise at planning appeal. Research shows that by far the majority of appeals of non retail uses are successful (URPI survey 54% and Compass survey 69% respectively). By the 1990s the attitude of Local Planning Authorities towards non retail uses

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had changed so dramatically that non retail uses were no longer a main priority or focus in their shopping policies. The main aim of these policies was changing towards making coherent shopping centres rather than identifying one use specifically, indeed many Authorities welcomed *any* use rather than the alternative of vacant premises.

A further conclusion from this research is that critical balance cannot be universally defined to cover all shopping centres given the nature and complexities of shopping centres and definition difficulties. The principles of retail mix proposed by the Unit for Retail Planning Information Ltd (URPI) in the 1980s relating to the percentages of tolerance of non retail uses in a shopping area still appear to be valid in the retail market place today. What is currently more valid is the survival of the High Street (inner town shopping areas) and other shopping environments against the threats posed by the internet and retail out-of-town developments. This is illustrated by the response of 134 Local Planning Authorities who felt that the main issue concerns town centre vitality and out-of-town retailing. Yet despite these complexities and misgivings, 16 (63%) of Local Planning Authority respondents felt that they had created a balanced shopping environment within their Authority. Twenty four Local Planning Authorities felt that their policies had had a limited effect on market forces. This is an interesting observation as the present agenda of a Local Planning authority is to sustain and enhance the viability and vitality of town centres (Department of the Environment, 1996). How this aim can be achieved is a dilemma as the Local Planning Authority has little or no control of market forces. If a retail or non retail use has no wish to locate in a shopping centre there is little that a Local Planning Authority can positively do to encourage occupancy.

Research undertaken by Local Planning Authorities is poor, not consistent or uniform throughout an Authority or region. This forms a poor basis for policy and decision making. Once a retail issue is raised due to the lack of research on the topic, the following scenario is generally played out: the initial Authority reaction is one of resistance and due to a combination of experience, more research, lack of success at the planning appeal stage and the decisions of the Planning Inspectorate, the plans of Local Planning Authorities are revised in the light of experience at appeal. The revisions and learning process appear to take an inordinate length of time. This has clear implications for the land use planning system in the UK.

In addition, the revisions in the Use Classes Order were envisaged at the time of their introduction to be meeting the needs of the changing retail environment and hence reducing the burden on the UK planning system. Whether these aims were ever achievable is debatable. What is certain however, is that the Use Classes Order could never have pre-empted or predicted the revolutionary changes in retailing which took place between 1984 and 2002. The changing Use Classes Order initially appears to have had a limited impact upon the structure of the retail environment. Of greater impact are market forces. From the inception of this study the Order itself has undergone discussion and revisions resulting in the introduction of the new Use Classes Order 1988 with the aim of streamlining the

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planning regulations. In reality the Use Classes Order appears to have kept pace with retail change. For some however, the Use Classes Order did not go far enough:

“the purpose of a town centre is not solely retailing...there are...three parts to its future base, firstly retailing, secondly, services, and thirdly leisure orientated operations...I suggest that planners should seek to relax the Use Classes Order in order to encourage the wide range of services and facilities that the consumer is now seeking in the High Street.” Gransby (1988: 15).

The Use Classes Order is being reviewed. In 2001 the Government issued a Green Paper with the hope of “delivering fundamental changes to the planning system” Department for Transport, Local Government and the Regions (2001). The aim is to allow maximum deregulation consistent with achieving planning policy objectives but basically successive Governments have largely ignored retailing apart from some tinkering at the edges of retail planning and consequently nearly half of Local Planning Authorities when questioned felt that Government guidance was vague in nature.

In conclusion, planning should be forward thinking and pre-empting change in the retail environment and not be constantly reacting to change. Often it appears that the first planning reaction to some “new” uses within the retail environment is one of restriction leading to almost inevitable retreat. Planning should never be left to planning by appeal as can be seen in the UK over the past 60 years.

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