

Planning and Regulation of the Retail Trade to Protect the Inner City Environment and to Prevent Unhealthy Competition

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Key words:

ABSTRACT

The Danish retail structure has changed dramatically during the last decades. The aim of this article is to argue for the necessity of central state control and ‘watertight’ regulation to manage the retail structure development and its (negative) results as they may appear in a decentralised planning system. This argumentation shall be seen in the light of the Danish experiences during the last two decades, which will be presented and discussed on the basis of the author’s PhD-research. Especially the new regulations in the 1997 Planning Act and the (possible) effects of the regulations will be discussed. The article will, through the use of case studies, present evidence for the assumed success or failure of this law reform.

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1. INTRODUCTION

On one hand the Danish retail structure has moved towards what with a well-known metaphor is characterised as ‘American conditions’: Large shops and shopping centres have appeared outside the city areas. This has led to an extensive shutdown of shops especially in the small and medium-size towns. On the other hand, a planning control system exists that is in fact able to prevent such an inexpedient and undesirable development.



Figure 1: Large out-of-town retail centres in Denmark.

This paradox brings up the question: Given the existence of a planning control system that arguably should be able to prevent this, why is the retail structure developing towards ‘American conditions’?

The overall conclusion of the analysis is that in most cases the planning authorities are fully able to control the localisation of retail shops - if they want to. But they are not able to control the development of the retail structure in a broader sense, mainly because of a rather vague and elastic legislation. Furthermore, the planning authorities are not always motivated to control the localisation of retail shops because of competition between cities, municipalities and regions. This conclusion will be further developed below.

2. THE DANISH RETAIL 'BOOM' AND THE RETAIL STRUCTURE DEVELOPMENT

The Danish retail 'boom' took place from 1987-1995. It was a period characterised by large-scale out-of-town development of superstores and shopping centres that radically transformed the retail geography. At the same time countryside impoverishment and stagnation of town centres became still more serious problems. In Denmark, as in the rest of Europe, it became the overall view that these problems had a connection to the retail 'boom'.

In general, four main factors are identified to determine the structural development of the retail sector: *Consumers, public regulation, technology and retailers*, see figure 2.

The two main (f)actors are of course the retailers who offer different products for sale, and the consumers who demand them. But besides the retailers there are merchants and manufacturers, and all the actors are affected by the general socio-economic development.

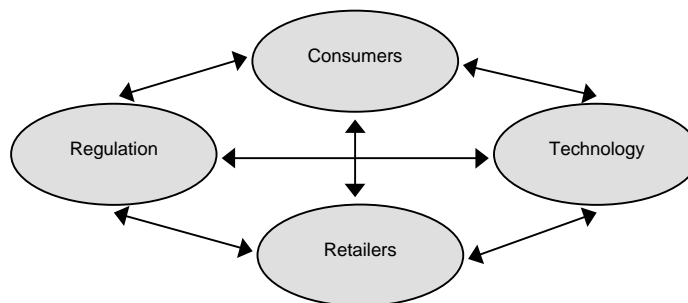


Figure 2: Four main factors determine the structural development of the retail sector [cf. *Butikker og forbrugere – nu og i fremtiden (Shops and consumers – now and in the future)*, Report no. 1353, The Ministry of Trade and Industry 1998, p. 42].

The retailers set up shops and offer their products for sale in a competitive environment with other suppliers. They take advantage of new technology, but they are also limited by different public regulations: First of all the planning regulations that determine where it is allowed to establish new shops, but also by the Shops Act which in Denmark prescribes the different opening hours for different kinds of shops.

The individual consumer influences the structural development of the retail sector by her choice between different shopping opportunities. Therefore, the structural development is mainly determined by the consumers - as regards their preferences of different shopping opportunities as well as their resources (e.g. car disposal). Prices, selection and quality of shopping goods as well as accessibility and service standard are all key factors that determine which shop or which shopping centre the consumer will (or can) use.

All these factors interact in a complicated matrix, which determines not only the structural development in the retail sector, but in the end, *the consumers' shopping opportunities*.

The development of the retail sector and the consumers' shopping opportunities during the last three decades can be described as three tendencies towards concentration.

2.1 Three Tendencies towards Concentration in the Retailing Sector

The most obvious concentration tendency is the *concentration with regard to size, number and turnover of the shops*. Such structural changes have been most visible in the food retailing sector. In this sector the general tendency is characterised by having less but bigger and more effective shop units. During the last three decades the total amount of convenience stores¹ is more than halved, and it is especially the small grocery shops and specialist food shops that have closed down. In the same period superstores, large supermarkets and discount stores have emerged and replaced the smaller shops. This development has more than doubled the average size of convenience stores.

The modern convenience stores are generally more effective. This gives rise to a larger average turnover than in the small grocery shops and specialised food shops. Another reason for the larger turnover is the compound trading and hence the diversification of assortment between different types of shops - for example the increase in assortment of non-food and other speciality goods in the superstores. The compound trading saps the basis for the traditional specialist shops. Hence, both assortment and turnover have transferred between different branches of trade and from one type of shop to another. The non-food trade sector has not yet gone through a structural change that is comparable to the food retailing sector. However, the tendency is the same. The changes in the non-food sector are of course highly influenced by the compound trading. Electronics, clothing and ironmongery have been sold increasingly more through the convenience stores.

The second concentration tendency is *concentration of economic power*. This is characterised by mergers, chains of shops and large retail corporations. The concentration of economic power is in itself a concentration of management and decision-making power. In Denmark there are mainly two types of retail chains: Independent shops which co-operate in attaining a strong buying position and marketing position and (food and non-food) stores run by large, centrally managed retail corporations. The chains have a superior market strength, which is given by their ability to purchase in large volumes, their capacity of innovation, and their potential for cost savings. Against these and other expressions of superior market strength, the small traditional and independent traders cannot compete. The mergers and large retail corporations have led to both economic and political power of considerable strength which is accumulated in the hands of the few.

Furthermore, the economic concentration has caused a buying-up of solid and well-established independent shops by the stronger chains. This has resulted in a self-perpetuating process towards continuing decline of the independent shopkeepers.

¹ Convenience store: Mainly selling 'convenience goods' (general goods such as food and other daily necessities) – only a small percentage of the shop area is used for 'shopping goods' (speciality goods such as electronics, clothing, ironmongery and other durable consumer goods).

Finally, the concentration of shops in a smaller number of hands has caused a pressure on planning authorities to allow the establishment of large retail units where the 'consumer-desired' on-stop-shopping activity can take place – especially in out-of-town locations.

The third and last concentration tendency is the *geographical concentration of retailing locations*.

All new retail development is dictated by location and customer basis. Most shops – except from neighbourhood shops such as small supermarkets and discount food shops – need a location where a considerable amount of consumers is within reach, cf. figure 3. It is therefore a general tendency that new retail development is preferably located either in traditional shopping centres within the city boundary or in new shopping centres in the fringe of cities.

Type of shop	Shop size (m ²)	Minimum customer basis	Preferred location
Small supermarket	500-1,500	4,000	Inner city/local centre/elsewhere
Medium supermarket	1,500-3,000	10,000	Inner city/local centre
Discount food shop	200-600	4,000	Inner city/local centre/elsewhere
Department store	3,000-6,000	20,000	Inner city/local centre/fringe
Superstore	6,000-15,000	50,000	Fringe/inner city
Large non-food store (clothing/electronics)	1,000-4,000	25,000-35,000	Fringe (only large cities)
Large non-food store (furniture and fittings)	3,000-6,000	25,000-50,000	Fringe (only large cities)
Traditional non-food specialist shop	100-300	10,000-25,000	Inner city/local centre
Discount non-food shop	200-400	35,000	Inner city/local centre/elsewhere
'High-profile' non-food shop	200-400	35,000	Inner city/local centre

Figure 3: Minimum demands of retail companies on shop size and 'clientele within reach'. [cf. *Butikker og forbrugere – nu og i fremtiden (Shops and consumers – now and in the future)*, Report no. 1353, The Ministry of Trade and Industry 1998, p. 72].

The chains behind the large new retail development (large non-food stores, superstores and department stores) demand, as a rule, out-of-town locations in the fringe of large cities. Their 'clientele within reach' is the car-borne consumers. Typical demands of these retail business chains are disposal of considerable parking space and a location close to arterial roads in the fringe of large cities where the preconditions for accessibility of many car-borne consumers are in place. Finally, the increasing amount of out-of-town shopping centres in close connection with the 15 largest cities has contributed further to the geographical concentration of retailing locations, cf. figure 1.

2.2 The Main Problems

The retail structure development has caused a lot more problems than countryside impoverishment and stagnation of town centres, as mentioned above. The main problems can be categorised as *environmental, social and economic-political issues*.

The main *environmental* concerns for the national planning authorities were that the spate of large new store development would give rise to changes of town centres in the sense of (more) empty stores. This was caused by the (still ongoing) development of retail floor space that was several times larger than needed. The Spatial Planning Department, Ministry of the Environment

made in 1995 a calculation showing that in the period 1987-95 the retail development in Denmark had a volume sufficient for the supply of 1.2 m consumers². Half of the new store space was located out-of-town or detached from the city centres. In that way it could compete with the existing shopping centres. This, it was believed, posed a threat to the vitality and viability of the existing local and traditional centres in the long-term future. Furthermore, it was an environmental concern that this development would generate a lot of unnecessary travelling activity and, hence, lead to more emission of pollution in vehicle exhausts.

The national planning authorities' *social concerns* are about the 'weak consumer' and the reduction of consumer welfare. The Ministry of the Environment stated in 1985 that the overall reason for the public planning authorities to deal with planning and regulation for the consumers' shopping opportunities was the disability of the retail sector to serve the 'weak consumers' as good as the 'strong consumers'. The 'weak consumer' is in general defined as the disadvantaged and less mobile member of the society, i.e. the low income families, the single parent families, the elderly, the disabled and – especially - the non-car owners, who have no or little access to shopping facilities. However, the definition – and quantification of - 'weak consumers' varies a lot: The Ministry of Trade and Industry has assessed the amount of 'weak households' to 2-3%, which is households without a car and located more than 2 kilometres from a shop concentration. On the other side The Ministry of the Environment interprets the conception 'weak households' as households without car, as the one and only criterion, which are just below 50%. Besides no or little access to shopping facilities, social concerns of the Danish government were about increased transport expenses and increased time expenditure of the 'weak consumer' as a consequence of the large new out-of-town retail development. Another social concern is about employment. On the one hand the large new retail developments create an increase in job opportunities, at least in the short term. But on the other hand these retail developments 'suck' employment from already established shops elsewhere in the same way as the large retail outlets 'vacuum-clean' the consumers of the small shops. Anyhow, the amount of full-time employees in the retail sector in Denmark has declined with only 7,000 in the period 1985-92, and the decline has even stabilised recently because of the general boom in the economy and because of the 1995 Shops Act³. But the main problem is the structural change of employment, particularly the movement of jobs from the rural districts, villages and small towns. Furthermore, the loss of 'the last shop' causes a welfare decline in the rural districts, villages and small towns, because, traditionally, these shops play a 'social part' in such localities.

² The total population in Denmark is 5.5 m inhabitants.

³ The Shops Act liberalises the opening hours for 'small shops' (turnover less than 14 m DKK (= US \$ 1.7 m) per year) which since 1995 are allowed Sunday trading.

The *economic-political concern* of the government has to do with the economic concentration mentioned above. The emergence of a group of large retail corporations and retail developers has given rise to a new group of 'actors' in the economic-political arenas. Their power is ascendant not only to other retail actors, particularly the traditional, small independent traders and shopkeepers, but the power of these new and big actors can also match, or even overrule, the planning authorities.

The *economic power* of the large retail corporations has come to rival not only the small independent retailers but also smaller retail corporations. The big retailers outflank or buy up the small and middle-size retail shops. Besides, the 'mighty ones' compete with each other in finding the best locations for their outlets. Furthermore, there are times when their applications to develop are 'rivals' or are sent in at the same time to the planning authorities. There are also several examples of retail corporations, who 'block' towns for further retail development: The corporation has e.g. a supermarket in a certain town of 4,000 inhabitants, where this supermarket is the one and only food shop in town. With the purpose of 'blocking' the town for further retail development, especially from rival corporations, the present supermarket 'releases space' for developing e.g. a discount food shop within the 'family' to consolidate and secure the position of the corporation in this town. This could be said to be 'cannibalism', but it is in fact considered to be better to accommodate a discount food shop from the 'family' than to risk a rival development.

These tactics challenge the planning authorities, and their decision-making power and ability to control the retail development has therefore weakened in effect. However, the main *political power* of the large retail corporations is the potential for playing off one local authority against another. Although applications for permission to establish large new store development should have been treated in line with the regulations of the county (structure plan), several applications have been 'exceptionally' granted. Individual districts (and counties) have sought either to enhance their 'retail profile' in competition with other districts or to prevent a development to be granted to a neighbouring district or county, respectively. It is not unusual that the large retail corporations negotiate with more than one local authority at the same time to play them off against each other. Thus, competition between local authorities - and also 'fear' - have been the main reasons for the 'exceptionally' granted permissions. But also the opportunity for creation of new jobs has been the reason for several permissions even though other jobs may be lost in other parts of the district or the county. Many local (and regional) authorities cannot resist the temptation of a large out-of-town store development, especially if it is known that refusal will lead to the same development being proposed, and possibly consented, in a neighbouring district or county. Therefore, several cities have more than one large retail unit located, cf. figure 1.

Because of the competition between cities and because of the motives of 'fear' and temptation, many authorities have shown a weak practice in their retail planning and plan administration. And they have for that reason made a priority in favour of local trade and employment policy rather than in favour of environmental policy as stated in the Planning Act.

3. THREE CASES ON THE COMPETITION BETWEEN CITIES AND THE 'FEAR' MOTIVE

Below the article will present a couple of case studies to give evidence for the possibilities of success and failure of the Planning Act as before 1997.

3.1 The Føtex Store in Randers

The Føtex department store located in the northern fringe of the city of Randers - with good accessibility for consumers in Randers as well as for consumers in the region outside Randers – is an undesired department store in accordance with the legally binding *lokalplan* (local plan). The size of the store is 4,600 m² (office, storage room, staff rooms excluded).

The local plan presupposed a local shopping centre containing supermarket, post office, pharmacy, bank and cafeteria with a maximum of 4,600 m² totally. The single shops were not allowed to be larger than 2,000 m².

However, a Føtex store in the area of 4,600 m² was realized – without any exemption from the mentioned regulations of the local plan.

The question is: How could the retail company (Dansk Supermarked A/S) and the owner of Føtex succeed in bending the regulations determined in the local plan?

To obey the strict regulations stated in the local plan the company divided up a traditional Føtex store by a wall between the food and non-food departments of the store with a separate check-out-line each.

The municipal planning authority can hardly be blamed. The local plan is probably made with the best intentions. It is rather the intention of the retail company that can be blamed for trying to outflank the shops in the surrounding towns.

However, after realization of the 'Fø' (food) and 'tex' (clothes) stores, and after complaints from the consumers who were annoyed with the troubles of making daily purchases in two shops, the planning authority in the municipality of Randers was 'forced' to make an exemption to the local plan in order to legalise a traditional Føtex store.



Figure 4: Føtex store in Randers.

The Danish Planning Act, § 18

When a local plan has been promulgated, situations may not be established, legally or in fact, that contradict the provisions of the plan, unless exemption is granted.

The Føtex case is thus the story about good intentions that ‘ran aground’ in the end because of bendable regulations in the local plan. But it is also the story of a subsequent weak administration practice: The planning authority ends up by helping the retail company even though the company has been ‘cheating’.

3.2 The Bilka Superstores in Vejle and Kolding

The two Bilka superstores in the fringe of the cities of Vejle and Kolding (c 12,000-15,000 m² each) had in accordance with the *regionplan* (regional plan) and the *lokalplan* (local plan) permission to contain a department of convenience goods in a scale of maximum 1,500 m². The background to this maximum limit was to prevent the convenience shopping from moving out of the inner cities.

However, calculations done by a Danish newspaper showed a 50% exceeding of the maximum limit in the convenience goods department in both superstores. Confronted with these facts the county mayor and the two mayors of Vejle and Kolding municipalities just ignored the matter. However, after a lot of focus on the matter in the newspapers and television, the mayor in Vejle asked the retail company (Dansk Supermarked A/S, owner of Bilka) for an account. The mayor specifically asked for a statement of the method of calculation of floor space used by Bilka as well as Bilka’s definition of convenience goods.



Figure 5: The stores 'Fø' and 'tex'.



Figure 6: Bilka superstore in Vejle.

It came out that the retail company had used ‘its own method of calculation of floor space’ and, also, the current definitions of shopping goods and convenience goods had been ‘bent’. For instance, Bilka looked at deodorants, shampoo, health food etc. as shopping goods - and not as convenience goods which is the proper definition. For that reason the two Bilka superstores received an order from the two municipal planning authorities to reduce the convenience goods departments of the superstores.

The retail company reacted by sending in a complaint to the Nature Protection Board of Appeal. However, the decision of the local planning authorities was sustained.

The epilogue of the cases, however, took a surprising turn. The two municipal authorities released the retail company from the order to reduce the convenience goods sections of the

superstores. In favour of Bilka, but contrary to the current definitions, the two municipal authorities redefined the shopping goods and convenience goods conceptions: Deodorants, shampoo etc. – and even pet food - became ‘shopping goods’ as a local definition.

The two Bilka cases are – again – the story of a weak planning and administration practice. In the first round the planning authorities ignored the ‘cheating’, in the second round they tried to enforce the regulations, and in the third round they helped the retail company getting off.

3.3 The Underlying ‘Fear’ Motive

It is evident that many local politicians feel a pressure to work for large retail projects to be located in the municipality or county. Either to enhance their ‘retail profile’ in competition with other districts or to avoid that the development shall be located in a neighbouring municipality or county. Some municipalities have even subsidised the developments – at least indirectly – by paying a considerable share of the costs for infrastructure in connection with the development of superstores and shopping centres on ‘virgin land’⁴.

Moreover, some municipalities and counties have been deceived into permitting large new store development. There are several examples of analyses that understate the consequences of large new retail development when presented by a retail company to the local decision-makers. Thereby the retail companies also act like lobbyists who provide the local decision-makers with the arguments that legitimate the decision of permitting a large new store or superstore.

There may even have been examples of ‘terror planning’ in the sense of threats. Threats insinuated by the retail company about building a superstore in the city of a neighbouring municipality if not permitted in the city in question.

3.4 Conclusion on the Retail Sector Development until 1995

As shown through the three cases above, the significant driving force of the retail sector development has been a mix of willing authorities granting the planning and building permissions for large new store developments in combination with ‘cheating’. ‘Cheating’ in the sense of bending the rules, understatement of the consequences of large new store development, lobbyism and (perhaps even) ‘terror planning’ – where the planning authorities have been easy victims.

However, in 1995 the retail ‘boom’ came to an abrupt end. The Minister of the Environment requested a six months’ ‘planning stop’ for further out-of-town retail projects and retail projects of regional consequences. Any local government endorsement and approval of such retail projects would be met by a ‘call in’ from the minister. The background for the ‘planning stop’ was to give the minister a ‘breathing space’ to consider whether the current 1992 Planning Act

⁴ *Landdistrikternes udviklingsmuligheder (The development opportunities of the rural districts)*, Report no. 1333, The Ministry of the Interior 1997, p. 283.

was suitable and whether the present planning and administration were in line with the purpose of the Planning Act.

As a result of the 'breathing space' the minister came to a decision in 1996 to revise the Planning Act, and in 1997 a law reform was passed in the Folketing (the Danish Parliament). It was stated that the government wanted to improve the possibilities of a more decentral structure development and to give better prospects for the small and middle-size towns as locations of purchase. The government and the majority in the Parliament realized that the traditional in-town shopping districts had to be made more competitive against the shopping centres and the large-scale shops if they should survive.

4. THE 1997 PLANNING ACT: THE GOVERNMENT'S ATTEMPT TO SOLVE THE PROBLEMS

The 1997 Planning Act contains legal provisions that, among others, prohibit out-of-town retail development and prohibit convenience stores over 3,000 m² and non-food stores over 1,000 m² as a principal rule. Thus the Planning Act has impeded, and in practice forbidden, development of any large-scale out-of-town retail project.

Moreover, the Planning Act specifies a right to veto a proposed regional plan or amendment thereto of another regional planning authority if the regional planning authority considers that the proposal can be of considerable significance for the authority's planning of the structure of retail trade. The intention is to avoid competition between the county (and municipal) authorities.

The legal provisions about retail projects in the Danish 1997 Planning Act are amongst the most restrictive in Europe. And the Danish legislative answer to the problems as a result of the retail structure development is presumable one of the most radical solutions in Europe, too.

However, the 1997 Planning Act is not only radical in an European context. In Denmark it is considered as the most radical Planning Act so far. It is generally recognized that the cornerstone of the Danish trade policy is the idea of a free competitive market. The general aim is to create growth and employment. The

The 1997 Danish Planning Act Planning of retail trade

Objectives, §5c:

Planning shall:

- 1) promote a diverse supply of retail shops in small and medium-sized towns and in individual districts of large cities;
- 2) ensure that areas are designated for retail trade purposes in locations to which people have good access via all forms of transport, including especially walking, bicycling and public transport; and
- 3) promote a societally sustainable structure of retail trade that limits the distance people need to transport themselves in order to shop.

The 1997 Danish Planning Act Planning of retail trade

Planning principles (1) , §5d:

The areas designated for retail trade purposes shall be located in the centre of a town. In large cities and in coherent urban areas in Greater Copenhagen, areas for retail trade purposes may be designated in the centre of a city district.

Planning principles (2), e.g. §6, subsection 9, no. 7:

A regional, municipal or local plan shall inform about the special reasons based on planning considerations for the establishment of permitted shop sizes exceeding 3,000 m² of gross floor space for general goods or 1,000 m² of gross floor space for speciality goods.

The 1997 Danish Planning Act Planning of retail trade

Veto, §29b.

A regional planning authority may submit objections to the proposed regional plan or amendment thereto of another regional planning authority if the regional planning authority considers that the proposal can be of considerable significance for the authority's planning of the structure of retail trade.

government will not and shall not steer or interfere in the activities of the trade and industries. The trade policy, instead, aims to increase and strengthen the general conditions for commercial enterprises as a basis for increased growth and employment⁵.

5. CONCLUSION: DOES THE 1997 PLANNING ACT SOLVE THE PROBLEMS?

The implementation of the objectives, principles and regulations of the 1997 Planning Act is - this year (2002) - in the very beginning. The implementation occurs through the regional, municipal and local planning because of a so-called 'framework control' in which planning at any level must be in agreement with the planning at higher levels.

Recent surveys indicate a slow-down in the retail sector development. However, this is no matter for surprise. The competition between counties and municipalities respectively has met 'rough times' since the veto-right was introduced. Furthermore, it has become more difficult to grant or to obtain a planning and building permission for large new out-of-town retail development since the two principal rules have entered into the Planning Act: (1) Shops shall be located in the centre of a town; and (2) as a principal rule the maximum shop sizes are 3,000 m² of gross floor space for general goods and 1,000 m² of gross floor space for speciality goods.

Planning and 'framework control' in Denmark

Planning is carried out at three levels in Denmark: nationally; regionally for each of the counties; and in each of the 275 municipalities.

The Planning Act is based on the principle of framework management and control, in which planning at any level must be in agreement with the framework established at higher levels. Of course, all plans shall respect the Planning Act and its principles.

So far the 1997 Planning Act has succeeded, even if it does not solve all the problems. There is still a lack of accurate and 'authorised' definitions of 'convenience goods'/'general goods' and 'shopping goods'/'speciality goods' as well as 'shop'. Therefore, it is likely to see cases like Føtex in Randers (see section 3.1) and Bilka in Vejle and Kolding (see section 3.2) coming up again in the future. And as long as retail companies (and local planning authorities) will continue to use any loophole in the legislation, and as long as planning authorities will continue to act as 'easy victims', the unhealthy competition between cities will continue. As a consequence, the countryside impoverishment will continue, the consumer welfare will decrease, the unnecessary travelling activity to the shops will continue to rise and the vitality and the viability of the existing local and traditional shopping centres will be threatened.

On this background the necessity of central state control in the sense of 'watertight' regulation should be evident – at least when it comes to planning and regulation of retail trade – in order to steer the local planning authorities, and to manage the retail structure development.

⁵ Stig Enemark 1999, p. 89.

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