

FINANCIAL IMPACT OF ADOPTING LOCAL SPATIAL DEVELOPMENT PLANS

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Summary

Under the Law on Spatial Planning and Development of 27 March 2003, many municipalities and cities in Poland are obligated to draw up a zoning plan – one of the main instruments (in addition to the budget, local development program of a territorial unit, and the feasibility study) for the implementation of local economic policy. This situation exposes local government units to considerable financial implications associated with the adoption of the plan and its consequences.

In the current formal and legal reality, urbanization and space management generate huge costs, resulting in negative financial results.

Failing to prepare the local plan can protect municipal budget from those costs, on the other hand, as a consequence the lack of such plan prevents rational implementation of spatial planning. This can lead to investment activities conducted under random, uncoordinated decisions, and even to urban chaos.

The article makes an attempt to analyze this problem, presented on the basis of pertinent laws, and insights arising from the direct experience of the author – as a practitioner who handles the contents of local development plans daily.

Keywords

spatial development (zoning) plan • spatial planning • financial effects of the plans • claims for damages

1. Introduction

In the light of the present laws and regulations, in Poland, local spatial development plans (zoning plans, which establish the designation of areas, manner of their development, respective functions, and construction development) are the basic tools of the municipality's planning policy. Therefore the adoption of the local plan becomes the basic condition for the rational spatial planning at the local level.

Under the Law on Spatial Planning and Development of 27 March 2003 [Ustawa... 2003], which – among other things – has declared null and void all the planning documents adopted before 1995, many municipalities and cities in Poland are obligated to

draw up a zoning plan¹. According to many experts, consultants, and specialists active in the real estate market, this situation burdens municipalities and towns with serious financial implications resulting from the adoption of the plan and its consequences. In the current formal and legal reality, urbanization and space management generate huge costs, often resulting in negative financial results. The cost of preparing planning documents is a factor detrimental to municipal planning. Therefore failing to prepare the local plan might protect municipal budget from those costs – but on the other hand, as a consequence the lack of such plan prevents proper control over the development and the spatial planning², as well as it precludes the possibility of obtaining financial resources from zoning change fees, betterment levies, and real estate taxes. As a result, this would prevent rational spatial planning, and the proper economic development of any municipality. Therefore the principle of balancing the particular and the public interests becomes of chief importance.

Errors in spatial planning are usually irreversible, while faulty management of urban or communal spaces generates irrevocable losses. The vast scale of the problem in question touches both upon legal regulations, and the proper spatial policy of the country, the regions and the municipalities. The legal and financial impact of the adopted spatial plans, in addition to the units of territorial government, concerns also the owners, perpetual lessees, and buyers of property encompassed by the plan, or by the given planning or zoning change. The costs borne by the municipalities and towns vary in range and in character. Depending on legal provisions, pertinent regulations, and the development of a given investment process, they are revealed at different times and in different sizes, so to speak.

Planning activities at the municipal level – that is, at the level of developing and adopting a study of conditions and directions of spatial planning and management,

¹ Universal obligation of adopting a spatial development plan – under the Law of Health Resorts and Spas, Resort Areas and Municipalities of 28 July 2005 [Ustawa... 2005], concerns municipalities, which possess in their area a potential for health resort activity in the so-called “A” health resort zone.

² Article 2, paragraph 1 of the Law on Spatial Planning and Development – spatial order – should be understood as such spatial organisation which creates a harmonious whole, and takes into account, in ordered relationships, any conditions and requirements: functional, social and economic, environmental, cultural, compositional and aesthetic; “[...] spatial order is a multi-aspect concept, which concerns not only aesthetic issues but also combines those with social and economic, environmental and cultural aspects. [...] In the social aspect, the introduced changes [...] reduced bureaucracy of procedures, and served to decrease administrative costs of the developed plans (by cancelling the obligation to send personalised notification letters) and limited the legal rights of real estate owners to benefit the communal interests. Replacing the veto and the plea with the comment (2003) increased the freedom in making planning decisions, and particularly in developing local plans. [...] Designers as well as local self-government authorities acquired possibilities of shaping the space, especially in its functional aspect (that of communication and transportation) but also in terms of urban planning, zoning and architecture, while taking into account the collective interest of inhabitants. In addition to decision-making powers grounded in procedures, as well as powers resulting from the property law, the changes made to legal acts and regulations are leading towards improved spatial standards in the aspect of urban parameters” [Zastawnik 2013, 19–20].

planning decisions for public utility purposes – are seen as constructing the framework, in which our lives ensue. A municipality, as a unit of local self-government administration, must abide with regulations of pertinent legal acts, while spatial management should be based upon the model of success [Heczko-Hyłowa 2001].

2. Legal bases and resulting financial implications for municipal budgets following the adoption of spatial development plan

2.1. Municipal responsibilities (financial costs resulting from shaping and conducting spatial policy)

In article 7 of the Law on Municipal Self-government of 8 March 1990 [Ustawa... 1990], the following municipal tasks have been defined.

“Art. 7.1. Meeting the collective needs of the community lies within the municipal tasks and responsibilities. In particular, the tasks and responsibilities of the municipality include the following matters:

- 1) spatial order, real estate management, environmental and natural protection, and water management,
- 2) municipal roads, streets, bridges, squares, and organisation of road traffic,
- 3) waterworks and water supply, sewage system, sewage removal and treatment, maintaining cleanliness and order as well as sanitation, rubbish dumps, waste disposal and utilisation, power and heating supply and gas supply”.

Spatial planning is listed among the tasks of the given municipality, and it is financed from the own funds of the self-government unit, within municipal budget³ [Zastawnik 2013].

The Law on Spatial Planning and Development of 27 March 2003 leaves no doubt as to the fact that the “municipal spatial plan is a local planning act” (article 14, paragraph 8). According to article 3, paragraph 1 of the law:

“Article 3.1. Shaping and conducting spatial policy within the area of the municipality, including the adoption of the study of conditions and directions of municipal spatial planning and management as well as local spatial development plans, excluding

³ The level of prices of planning studies, resulting from the analysis of tender procedures over the recent years:

- the change of spatial development study for the whole area of the municipality – generates costs in the amount of between several tens of thousand to over a hundred thousand Polish złoty;
- development of the zoning scheme (local development plan) for an area of several to under twenty thousand hectares – generates the cost of between ten and twenty thousand Polish złoty. The cost of the local development plan (zoning scheme) for the whole municipality by far exceeds a hundred thousand Polish złoty (the exact cost depends on the area and the price standards of the given design studio, which presents the offer for tender procedure);
- spatial policy based on WZ (planning decisions) – issuing several tens of decisions over the period of one year may cost the municipality between ten and twenty thousand Polish złoty; when hundreds of decisions are issued, the financial load increases to tens of thousand Polish złoty [Zastawnik 2013, 97].

inner coastal waters, territorial waters, exclusive economic zone (finishing zone) and enclosures, lies within the tasks and responsibilities of the given municipality”.

Article 4 of the quoted act of the law directs as follows:

“Art. 4.1. Defining the function (designation) of the given area (zoning plan), placement of the public utility investment projects, and defining ways of and conditions for land development and construction are all included in the local spatial development plan”.

Being the basic unit and entity within the structure of the local self-government administration, municipalities have at their disposal the planning power, and they can create local land development plans independently – that is, they can decide the designation and principles of spatial planning⁴. Spatial development plan is regulative in its character, therefore it is a form of a municipal law act, which shapes the content of the real estate ownership law⁵ [Niewiadomski et al. 2009].

Planning documents, which are obligatory to prepare according to the quoted Law on Spatial Planning and Development include:

- Study of conditions and guidelines for spatial development, which can be modified in the situation of modified conditions and/or in connection with the need for changes in the directions that the municipal spatial planning should take. Due to budgetary constraints, many municipalities postpone the modification of their studies, or when necessary, they initiate only a partial change thereto.
- Spatial development plan – elaborated for the whole area of the municipality or for selected areas, according to municipal funds availability, with possible distribution of costs over several years.
- Planning and construction decisions (location decisions and planning permissions)⁶ – ULI and WZ⁷.

⁴ Only the municipal planning decisions are binding, and they are decisive for the owners and perpetual lessees. No other unit of territorial self-government has such powers (neither does the State administration) [Niewiadomski 2002].

⁵ According to article 6, paragraph 1 of the Law on Spatial Planning and Development – “the provisions of the local spatial development plan, along with that of other regulations, impact the execution of the real estate ownership rights”.

⁶ ULI – location decisions pertaining to public utility investment projects (decision on the site location of a public-purpose line-investment project), WZ – decisions on the construction conditions (planning permissions, which define the function of the permissible developments in the area and conditions for the construction and investment projects therein), according to article 4, paragraph 2 of the Law on Spatial Planning and Development.

⁷ “In the situation of filling in or additions to the existing developments in the area, WZ decisions (planning permissions) provide a format for fast and effective administrative processing of an investment project. With a large number of applications for WZ decisions (planning permissions), the financial load for the municipality greatly increases. It is not possible to deny the planning decision due to the lack of funds in the municipal budget – therefore municipality must possess such funds. In the case of spending large amounts on procedures and decisions to issue planning permissions, other planning initiatives may effectively become impeded or delayed, including the making available of new areas for economic activity, which as a result curtails the economic growth in the given municipality” [Zastawnik 2013, p. 97].

2.2. The planning process (costs for the municipality, without the profits)

The process of spatial development planning on municipal level is of a nature of a local law passed by the appropriate organ of municipal authority, however other public administration bodies (on the national and regional level) also play an important role in the process. As such, the system of spatial planning is mutually complementary.⁸

In practice, the planning process on municipal level – based on the existing legislation – generates enormous costs for territorial self-government units, while not bringing them any profits in return. Therefore the cost of planning studies and documents often becomes a factor, which is detrimental to municipal planning.

Financial burden linked to the handling of the planning process concern the following: the development of the study of conditions, spatial development (zoning) plan, and preparing cost estimates for compensation payments and real estate purchase or buy-out.

The adopted local plan “may be treated as a special case of a public promise”, which, when not fulfilled, may give grounds to the complaint against the municipal authorities and to accusing them of inaction, and it may even “give rise to financial claims, if the complainant is able to demonstrate that he suffered financial losses as a result” [Jakóbiec 2013, 1–19].

2.2.1. Prognosis of financial result (economic aspects of the spatial planning process)

Based on article 17, paragraph 5 of the Law on Spatial Planning and Development, the lawmakers place the municipality (the village mayor or the town mayor – after the municipal council passes the decision on preparing the local development plan) under the obligation to elaborate the projection of financial impact resulting from the adoption of the local development plan (while taking into account article 36 of the aforementioned act of law) – in addition to the projected environmental impact study and taking into account the provisions of the study of conditions and directions (guidelines) for spatial development. The projection is an obligatory document, and it must be prepared during the elaboration of a draft spatial development plan or a modification thereof – as the responsible authority, which is creating the local development plan must know the consequences of the adoption of such a plan, already at the time of its passing. Based on the projection, it is still possible to verify the originally envisaged tasks. The purpose of the projection is to analyse and to determine the results of the provisions included in the plan, in terms of how realistic they are, and what is their economic effectiveness⁹. The

⁸ Article 46 of the Law on Spatial Planning and Development – the Ministry proper for the issues pertaining to local development: 1) coordinates the compliance of the spatial development plans of the voivodeships (regions) with the concept of the spatial development of the country as a whole; 2) coordinates trans-border and cross-border cooperation in terms of planning and spatial development.

⁹ Projection of financial implications is developed at the working stage of the draft plan, that is, before applying for opinions and compliance statements of the draft plan, and before presenting it for public consultation – so that there is an opportunity to verify the proposed solutions at that stage, and therefore limit the costs of spatial planning.

projection should take into account the costs and the benefits – both direct and indirect – as well as the balance between costs and benefits. In a situation where the sum of benefits exceeds the sum of costs, it can be assumed that the plan will be beneficial to the development of the municipality – and therefore it will serve its development well. In the contrary situation, the adopted plan in a longer time perspective may lead to a bad financial standing of the municipality, and in extreme cases even to its insolvency [Jakóbiec 2013].

According to the secondary legislation of the Regulation by the Minister of Infrastructure dated 26 August 2003 on the required range and content of the municipal spatial development plan [Rozporządzenie... 2002]:

“§ 11. Projection of financial implications of adopting the local spatial development and management plan should include, in particular:

- 1) Projection of the impact, which the provisions of the local spatial development plan shall have upon the income and the costs of the municipality, including the revenue from real estate taxes and other revenues pertaining to real estate transactions within the municipality as well as disbursements and compensation payments listed in article 36 of the Law;
- 2) Projection of the impact, which the provisions of the local spatial development plan shall have upon the expenditures pertaining to the implementation of technical infrastructure investment projects, which remain within the responsibilities of the municipality;
- 3) Conclusions and recommendations concerning the adoption of proposed solutions in the draft local development plan, resulting from taking into consideration their financial implications”.

2.3. Financial impact on the municipal budgets as a result of adopting the local development plan

Financial implications of conducting spatial policy by the agencies of territorial self-government¹⁰ can be subdivided into two categories, namely:

1. Direct expenditures pertaining to the preparation of the plan or its modification

¹⁰ According to E. Czekieli-Świtalska, financial impact of the adoption or modification of the local spatial development plan may be described with the following formula: “ $B = Kp + Pn \pm O \pm Rp$, where: B – the change in municipal budget caused by the adoption or the modification of the plan, Kp – costs pertaining to the preparation of the plan, Pn – the difference in real estate taxes (revenues from the tax before the adoption of the plan minus the value of the tax charged after the adoption or the modification of the plan), O – profit or loss resulting from article 36. of the Law on Spatial Planning and Development, Rp – costs and revenues linked to the implementation of the provisions of the plan or its modification over a particular period of time (for instance, within 5 years); this value is expressed with a formula as needed, for instance: $Rp = \pm Po \pm S - I + A$, where: Po – personal income tax, S – the difference in the sum of real estate sales before and after the adoption or the modification of the plan, I – costs pertaining to the construction of technical infrastructure, A – betterment levies” [Cienkowski 2014, 145, quoting: Czekieli-Świtalska 2005].

– cost of compensation payments, buy-out of real estate property, which has been designated in the local plan for public utility investments, or decrease in the revenues from real estate taxes. Potential income, on the other hand, may result from the revenues derived from re-zoning fees or increased revenues from real estate taxes.

2. Indirect financial implications of spatial policy implementation. These appear in a long-term perspective, and they are linked to the construction of technical infrastructure (costs of investment outlays and revenues from betterment levies), revenues from local taxes and charges, revenues from the municipality's participation in income taxes, or the decrease or increase of the local unemployment rate (as a result of the implementation of new investment projects or, conversely, of limiting the investment projects within the given area covered by the plan) [Czekiel-Świtalska 2005].

2.3.1. Compensations, fees, taxes (negative and positive financial result of planning decisions)

Solutions adopted by Municipalities as a result of passing new plans of spatial development or changing the existing spatial plans influence the change in the market value of real estate property – causing either its increase or decrease in value. Therefore, they bring advantages or cause losses to municipal budgets. In the case of increased value of real estate, resulting from the change in the designation of land (re-zoning) – for instance, from farming to construction/services, the given administrative organ may introduce fees and taxes. In the case of decreased value of real estate property, it is obligatory to pay our compensation. The level of such compensation can be disputed, but not its fact.

According to the provisions of the Law on Spatial Planning and Development:

- “Article 36. 1. If, in connection with the adoption of the local spatial development plan, or the modifications to such a plan, the use of real estate property or its part in the manner it had hitherto been used has become impossible or significantly limited, the owner or perpetual lessee of the real estate may (with the exception of paragraph 2) claim from the Municipality:
- 1) that the Municipality pays compensation for the real damage accrued or,
 - 2) that the Municipality buys out the real estate or its part.
2. The practical realisation of the claims listed in paragraph 1 may also be effected through the Municipality offering the owner or the perpetual lessee another real estate property in return. On the day of the exchange contract being signed, the claims become void.
 3. If, in connection with the adoption of the local spatial development plan, the value of the real estate property decreases, and the owner or the perpetual lessee is selling the property and has not taken advantage of the options mentioned in paragraphs 1 and 2, he can demand from the Municipality the payment of damages equal to the sum, by which the value of the property had decreased”.

According to article 37, paragraph 3 of the quoted act of law – the claims mentioned in article 36, paragraph 3 can be made to the municipal administration agency within 5 years since the day that the given local plan of spatial development or its change came into force.

Based on article 36, paragraph 4 of that same act of law, in the case on an increase in the value of the real estate property,¹¹ the Municipality may charge a re-zoning fee (zoning change fee).

“Article 36.4. If, in connection with the adoption of the local spatial development plan, the value of the real estate property increases, and the owner or the perpetual lessee is selling the property, the village mayor or the town mayor charges a one-time fee defined in the aforementioned plan, and formulated as a percentage of the increase in the value of the property. The charge cannot be higher than 30% of the increase in the value of the real estate property”.

Financial advantages for municipalities, resulting from planning decisions, and impacting the increase in the value of real estate – as a result of the divisions of a real estate property, dividing and merging properties, as well as construction of technical infrastructure, bring revenues to the municipal budget in the form of charging betterment levies. The amount of the levy is set by the municipal council, and the conditions of its appointment¹² are determined by an act of law of 21 August 1997: the Real Estate Management Act [Ustawa... 1997], while in the situation of betterment levies calculated for:

- division of a real estate property (with the application of provisions of articles 98a and 98b of the Real Estate Management Act) – the fee may not exceed 30% of the increase in the value of the real estate property,
- dividing and merging (article 107 of the Real Estate Management Act) – the fee may not exceed 50% of the increase in the value of the real estate property,
- share in the costs of constructing technical infrastructure (with the share of State Treasury funds, funds of the regional self-government administration, funds from the European Community budget or non-refundable funds from foreign sources) – that is, the construction of roads or building underground, on the ground, or over ground, cables and appliances: water pipes and waterworks, sewage, heating, electricity, gas or telecommunications, following the articles 143–148 of the Real Estate Management Act – there is no obligation to charge a fee; the municipality itself decides whether it is necessary to charge a fee).

¹¹ The increase in the value of the real estate property is the difference between the value of the property determined while taking into consideration the land use applicable before and after the change or the adoption of the plan. The task is completed by an expert evaluator, who must determine the value of the real estate property according to the status after the plan has been adopted/modified, and according to the status before the plan has been adopted/modified [Jakubiec 2013, p. 4–5].

¹² Charging the betterment levy is effected in the following situations: 1) increase in the value of a real estate property as a result of its division (while the division of the property must already have been approved, and remain in accordance with the principles of the plan), 2) merging and dividing a real estate property, and then assigning new properties to the owners, 3) after the construction of roads and technical infrastructure [Jakubiec 2013, p. 5–6].

The source of municipal revenue when implementing the provisions of the adopted local plans of spatial development derives from the **taxes**:

- revenue from real estate tax (change in the land tax depending on the land use, building tax and taxation of buildings and structures constructed within the area encompassed by the plan),
- revenues from taxes on civil law transactions (revenue linked to the sale and purchase of real estate property),
- personal income tax (tax paid by private persons residing within the given municipality as well as tax paid by legal persons with registered seat within the area of the municipality).

Provisions made in the local plans of spatial development, in most cases, create broad opportunities for locating investment projects (as a result of changing the designation of lands into construction-related – residential, services [...]) and either improving economic growth of the municipality or impeding that growth (by purposefully limiting the intensity of development in the given area). Implementation of new investment projects resulting from provisions of the local plan has an advantageous impact on the municipality's revenues in terms of **increased taxes**, that is:

- increased real estate taxes – on land, buildings, constructions,
- increased share in personal income tax in the case of residential development and settling of new residents/owners [Jakóbiec 2013].

3. Summary and conclusions

3.1. Legal impediments and financial consequences of the administrative reforms

The present legal regulations in force, pertaining to spatial development and management in Poland, have been moulded after 1989, during the systemic and administrative reforms, as well as the reform of the planning system and spatial development. As a result of those changes, the “continuity of knowledge and methodology has been broken. [...] At the level of municipal planning, defective studies and local development plans are created, compounded with low efficiency of institutions” [Zastawnik 2013]. The lack of legislative standards required in the case of regulations and acts by which local plans are adopted often results in the inclusion therein of provisions, which are unclear and impossible to interpret unambiguously. “Local plans of spatial development are drafted with the breach of any principles of proper legislation, which later must necessarily cause problems in their implementation” [Niewiadomski et al. 2009].

The range of issues with the spatial planning, as well as the financial and economic aspect connected thereto, still requires a broad public debate – with the participation of experts, scientists, practitioners – over the need for legislative changes pertaining to spatial policy, and their strong exposure in the laws. It seems essential to find the correct formula for the legal regulations and provisions – so that designing spatial structures

with increased usable and technical standards as well as improved conditions and quality of life of the residents takes priority over financial constraints.

According to Barbara Bartkowicz: “Undisputed necessity to introduce instruments that would condition the sustainable, harmonious development of our country, requires the re-establishment of a coherent system of spatial planning and developing obligatory rules for conscious, deliberate, and effective management of spatial development at all levels of decision making, supported with a whole range of economical incentives and restrictions, to enforce responsibility, accountability, and rational action. Otherwise, uncoordinated sectoral policies and selective activation or development of areas within the new policy of strategic intervention – instead of leading to the desired growth – may significantly compound the spatial chaos and inflame conflicts, thus destroying the most attractive areas of our country”. [Bartkowicz 2011]

The issues pertaining to and surrounding spatial planning bring with them a multitude of financial and economic aspects. In the current legal system, the costs of local spatial development burden almost in their entirety the municipal budget. This concerns both the spatial planning process and the implementation of infrastructure within the municipal responsibilities (construction of technical infrastructure (water pipes and waterworks, sewage, [...] implementation of road investments, buyout of land for public utility purposes pertaining to the implementation of municipal responsibilities as well as claims of the owners / perpetual users in the case of the decreased value of real estate property as a result of planning provisions).

At present, financial consequences of planning are becoming a very grave problem for many municipalities, and they result in adopting financially safe solutions, which as a result of the adoption of the plan shall not generate high costs or present problems in terms of buy-outs or compensations.

As planning practice indicates, it is a widespread phenomenon to develop local plans for fragmentary and dispersed areas. Such actions often result in equally fragmentary and dispersed plans – of the areas designated for single, particular investment projects, as well as lack of organisation and ordering of the space and the functional structure of the municipality as a whole. Many of the developed plans, in the sphere of spatial management, limit the proliferation of construction – not merely as a condition of sustainable development, but mostly for economical reasons – in order to minimise any spending resulting from planning decisions. These constraints also express themselves in defining, within the plan, of only the basic area functions (residential, services), while ignoring solutions that would ensure the satisfaction of residents’ needs and could potentially increase usable qualities (for instance, using the green areas of public access in proportion to built areas or to the number of inhabitants). These actions, for many municipalities, are associated with additional costs (of designating and separating such green areas) simultaneous with the creation of new urbanised areas [Blazy 2007]. With increasing frequency, planning documents also tend to limit the areas for development – those designated for residential housing, as an irrational allowance of such areas generates serious financial liabilities for the municipalities (costs pertaining to the buy-out of land for access roads). Public

roads are only planned in locations, where their construction is envisaged in realistic time perspective.

To venture a general statement, we can argue that the liabilities or responsibilities contained within the local plans of spatial development, particularly those concerning public infrastructure, integrate the regulations of spatial planning and financial (investment) planning. As a result, the practice of designating private areas for public investment projects causes the necessity for expropriation, and it is linked to payment of compensation or damages (buyout of land for the implementation of municipal obligations – the construction of roads and other public utility purposes, for instance, technical infrastructure).

It should be stressed that in the present realities, local self-government units are not equipped either financially or organisationally for the immediate provision of full communication and infrastructure servicing of the whole area of a given municipality or town [Niewiadomski et al. 2009].

To sum up, there is no doubt that one of the barriers, which impedes or slows down the planning process at municipal level lies in the aforementioned very high cost of planning documents, which is borne by the municipality in its entirety. Probably it is due to that fact that by the end of 2010, only a little more than 25% of the country's area had been covered by the local plans of spatial development [Cienkowski 2014]. In Mirosław Cienkowski's opinion: "This argument, often raised by local self-administration officials, is unconvincing, to say the least. [...] All costs, significant as they are, which go towards the development of a local plan, should be treated not merely in spatial planning categories, but also in the category of an investment – an investment with a particular, attractive rate of return. Thanks to using the instrument of the spatial plan, the municipality not only achieves the very much needed ordering of space, but it also receives other opportunities: for instance, effective sale of municipal property, the price of which significantly depends on the designation of area function in the spatial development plan, which allows for the increase of revenue to the municipal budget. Moreover, after the spatial development plan has been adopted, the municipal self-government unit acquires an opportunity to conduct energetic activities in the field of local marketing, business promotion, and therefore also to shape and position investment offers, and ultimately, to attract investors who shall guarantee a number of advantages for local communities, while implementing the planned investment projects (increased number of jobs, revenues from different kinds of taxes to the municipal budget, and so forth)" [Cienkowski 2014].

3.2. Conclusions

Judging from the aforementioned description as well as cost analysis of the development, adoption and implementation of the provisions of a local spatial development plan, it clearly follows that the Polish planning process is complicated and excessively prolonged. Adopting the local plan for spatial development obligates municipal authorities to implement the adopted provisions and to incur a number of costs of varied character, including:

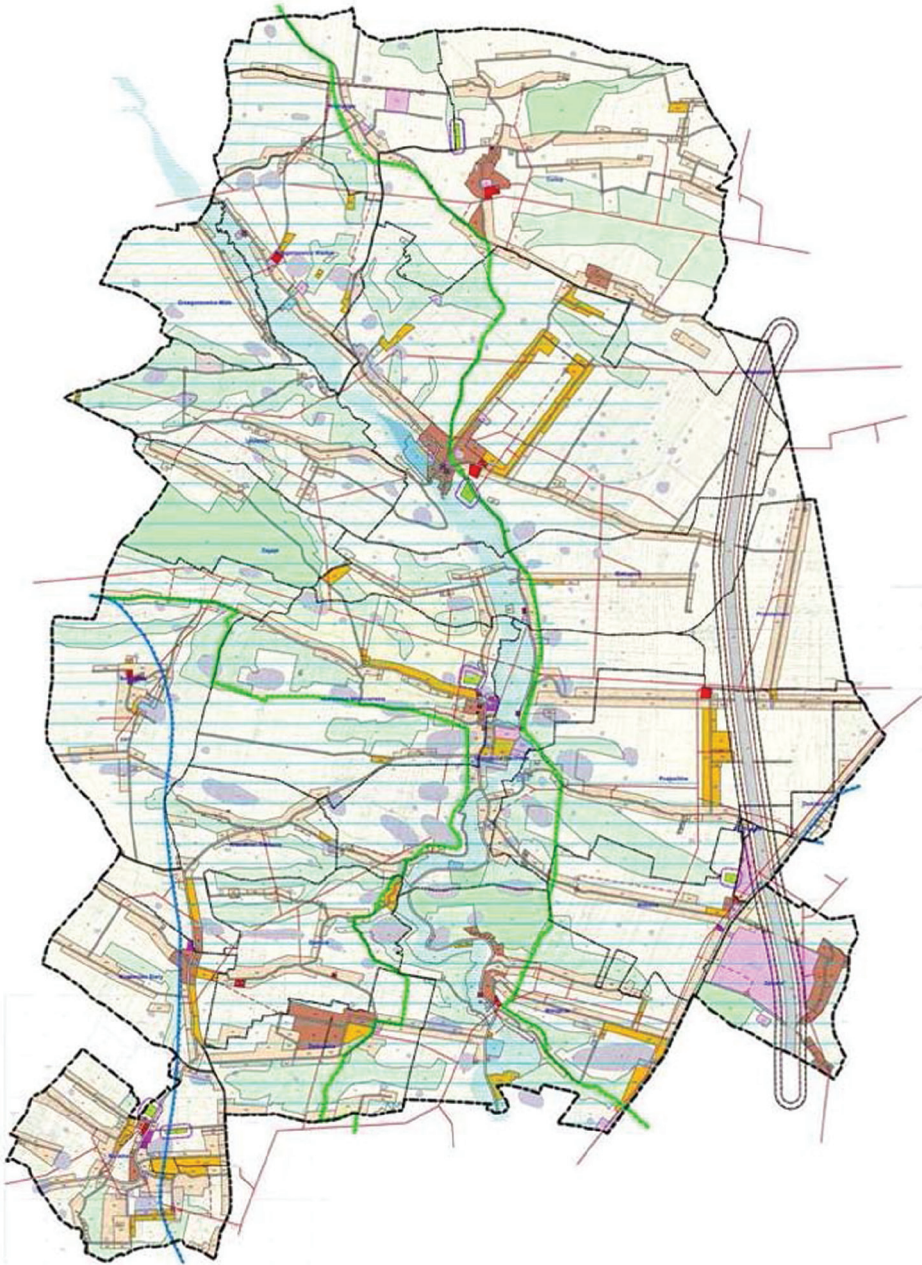
- financial burden resulting from negative impact on the value of real estate properties,
- financial burden pertaining to the buyout of real estate for the implementation of public utility investments,
- financial burden pertaining to the costs of building and fitting technical infrastructure,
- financial burden pertaining to the servicing of the investment process [Cymerman et al. 2008].

Independently of the economic, social and other factors influencing the solutions adopted in local plans of spatial development, it is the spatial planning itself that is decisive for the proper usage of space, its appropriate organisation and management, according to public expectations and the postulates of environmental protection. Adopting the plan of spatial development is extremely important for the shaping of municipal development processes, but also for the implementation of investment processes¹³. Planning decisions should take into account not only the financial aspects and the intentions of social and economic transformations, but they should also constitute “a plane for working out a consensus upon the right direction and range of development of a given area, which brings real effects in the actual space. [...] In the present economic awareness of the decision makers, where most investment decisions at municipal level are made under the slogan of job creation, the knowledge and widespread awareness of long-term impact of those actions is necessary, as perceived short-term economic benefits too often obscure the threat of irrevocable loss of unique values of particular areas, and even whole regions”.

To conclude, the discussion over the costs of spatial development in our country, and over the problem of preparing development plans and exposition to its financial implication, still continues. This is seen in the sphere of events, with the participation of self-government administration representatives, legal experts as well as architects and city planners¹⁴.

¹³ In terms of timing – the process of preparing the investment and receiving a construction permit is much shortened. According to article 35 paragraph 1, point 1 of the Construction Law of 7 July 1994 [Ustawa... 1994] – before issuing the decision on the planning permission or a separate construction permit for the given construction design, the appropriate authority verifies whether the construction design complies with the provisions of the local plan of spatial development. Wherever there is no such plan – then according to article 33, paragraph 2, point 3 – the Investor is obligated to attach to his application for the construction permit a planning decision on the development conditions and land function [...], which greatly lengthens the investment and construction process. Furthermore, before making an application for the planning decision (development conditions), the Investor must additionally provide a number of other documents in order to fulfil contractual obligations pertaining to such decision (including for instance the environmental conditions for the given investment project – if required according to the environmental protection regulations).

¹⁴ On 5 December 2013, in Poznań, a conference took place on the “Financial Impact of Spatial Planning – Implications For Local Development”.



Source: www.iwanowice.malopolska.pl (accessed: 20 October 2014)

Fig. 1. The area covered with the local spatial planning (zoning) and management plan of the Iwanowice municipality, Kraków powiat (*powiat krakowski ziemski*) of 2002 – approximately 20 km away from Kraków; with a small number of new areas designated for residential development, farmsteads and services



Source: www.zielonki.malopolska.pl

Fig. 2. The area covered with the local spatial planning and management plan of the Zielonki municipality, Kraków powiat (*powiat krakowski ziemski*), region within the administrative borders of Bibice village, of 2005 – next to the border with the city of Kraków; with a prevailing number of new areas designated for residential development (one family homes as well as ribbon developments) and services

References

- Bartkowicz. B. 2011. Rola planowania przestrzennego w konkretyzacji zadań strategicznych przemian i aktywizacji przestrzeni. *Czas. Tech. Architekt.*, 1-A, 2011, 10, 108, Wydawnictwo PK, Kraków, 7–13.
- Blaży R. 2007. Wartość terenów przyrodniczo-chronionych w kontekście planów zagospodarowania przestrzennego. *Czas. Tech. Architekt.*, Wydawnictwo PK, Kraków, 7-A, 2007, 199–206.
- Cienkowski M. 2014. Plan zagospodarowania przestrzennego jako instrument zarządzania rozwojem gminy. *Zesz. Nauk. Ucz. Warszaw. im. M. Skłodowskiej-Curie*, Kwart. 3, 45, 2014, 127–157.
- Cymerman R., Bajerowski T., Kryszk H. 2008. Prognoza skutków finansowych uchwalenia miejscowego planu zagospodarowania przestrzennego. *Edukaterra*, Olsztyn, 118.

- Czekiel-Świtalska E. 2005. Miejscowy plan zagospodarowania przestrzennego a skutki ekonomiczne jego uchwalania. *Przestrz. Forma*, 1, 2005, 90–91.
- Heczko-Hyłowa E. 2001. Koncepcja równoważenia rozwoju miast we francuskim systemie planowania urbanistycznego – Praca zbiorowa: Trwały rozwój polskich miast nowym wyzwaniem dla planowania i zarządzania przestrzenią. Politechnika Krakowska, 81–98.
- Jakóbiec E. 2013. Prognoza skutków finansowych uchwalenia planu, Materiały Konferencyjne: Skutki finansowe planowania przestrzennego – konsekwencje dla rozwoju, pdf. Poznań 5 December 2013, 1–19, www.mpu.pl/konf2013.php (accessed: 11 September 2014).
- Niewiadomski Z. 2002. Planowanie przestrzenne. Wydawnictwo Prawnicze LexisNexis, Warszawa.
- Niewiadomski Z., Asman T, Kopyra J., Szmytt A. (ed.) 2009. Prawna regulacja procesu inwestycyjno-budowlanego. Wydawnictwo Prawnicze LexisNexis, Warszawa, 72–111.
- Rozporządzenie Ministra Infrastruktury w sprawie wymaganego zakresu projektu miejscowego planu zagospodarowania przestrzennego gminy z dnia 26 sierpnia 2003 (Dz. U. z 2004 r. Nr 118, poz. 1233).
- Rozporządzenie Ministra Infrastruktury w sprawie zakresu projektu studium uwarunkowań i kierunków zagospodarowania przestrzennego z dnia 28 kwietnia 2004 (Dz. U. z 2004 r. Nr 164, poz. 1587).
- Ustawa o planowaniu i zagospodarowaniu przestrzennym z dnia 27 marca 2003 (Dz. U. z 2012 r. poz. 647).
- Ustawa o samorządzie gminnym z dnia 8 marca 1990 (Dz. U. z 2013 r. poz. 594).
- Ustawa prawo budowlane z dnia 7 lipca 1994 (Dz. U. z 2010 r. Nr 243, poz. 1623).
- Ustawa o gospodarce nieruchomościami z dnia 21 sierpnia 1997 (Dz. U. z 2012 r. poz. 1249).
- Ustawa o lecznictwie uzdrowiskowym, uzdrowiskach i obszarach ochrony uzdrowiskowej oraz gminach uzdrowiskowych z dnia 28 lipca 2005 (Dz. U. 2012 r. poz. 651).
- www.iwanowice.malopolska.pl (accessed: 20 October 2014).
- www.zielonki.malopolska.pl (accessed 20 October 2014).
- Zastawnik A. 2013. Kształtowanie przestrzeni z udziałem społeczności lokalnych w procesie planowania przestrzennego na wybranych przykładach z gmin małopolskich, doctoral thesis under the direction of dr hab. inż. arch. Marek Kowicki, prof. PK, Instytut Projektowania Urbanistycznego PK, Biblioteka Cyfrowa PK, Kraków.

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