

## CHAPTER 4

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# FARMLAND CONVERSION AS A MEASURE STIMULATING RURAL AND URBAN AREA DEVELOPMENT

### Introduction

The space inhabited by man is a common good, but it is also a limited commodity. Space is not expanding, we cannot enlarge it, therefore the main focus of spatial management has to be on the rational use of space. Rational spatial policies should satisfy the consumers' housing needs in both quantitative and qualitative terms.

Farmland and forests occupy 91% of Poland's area (CENTRAL STATISTICAL OFFICE, 2008). The manner of land use changes dynamically with progressing economic development and growing social needs. Farmland and forests constitute the main sources of space for investors. In Poland, recent years witnessed an increase in residential, industrial and mining areas at the expense of farmland and, to a smaller extent, forests. Therefore, the loss of farmland and afforested areas is an inevitable consequence of economic growth.

The above does not imply that agricultural land and forests should not be actively protected. The first legal act offering protection to agricultural space was Resolution of the Council of Ministers No. 198 of 12 July 1966 on the protection of arable land (Official Journal, M.P., No. 40, item 200). Legal regulations changed with time, their rank was upgraded to statutory laws, the principles, forms and tools of statutory protection were improved and refined (CYMERMAN et al. 2009).

Land protection combines various legal, technical, economic and social measures that prevent the reduction of overall land area and the deterioration of its productive capacity. Land protection is formally regulated by the following acts of law:

1. Environmental Protection Law of 27 April 2001 (Journal of Laws, 2008, No. 25, item 150),
2. Nature Conservation Act of 16 April 2004 (Journal of Laws No. 92, item 880, as amended),
3. Act on the protection of farmland and forests of 3 February 1995 (Journal of Laws, 2004, No. 121, item 1266, as amended).

The main law is the Act on the protection of farmland and forests of 3 February 1995 which sets the principles for the conservation of arable land and forests, the reclamation and revitalization of land. The above act was amended on 19 December 2008 (Journal of Laws, 2008, No. 237, item 1657), and the amendment entered into force on 1 January 2009.

The Polish term „*odrolnienie*” (farmland conversion to alternative uses) is not found in any legal act. It is used colloquially to denote a competent authority's consent to convert farmland or an afforested area to alternative use or to exclude it from farming production.

In the light of the above act, the legislator offers statutory protection to farmland by limiting its zoning designation to non-agricultural and non-forestry schemes. Only areas zoned as wasteland may be converted to alternative uses, and in the absence of such land – other areas with the lowest productivity class. The procedure of converting arable and afforested land to other uses takes place in stages, and it imposes three types of restrictions:

1. a local zoning plan has to be developed; alternatively, the petitioner has to apply for an outline planning permission covering the area in question,
2. a competent authority has to give its formal consent to the conversion scheme,
3. farmland and forests have to be excluded from production (CYMERMAN et al. 2009).

Agricultural and afforested areas are converted to alternative uses in the local zoning plan developed in line with the provisions of the Act on spatial planning and management of 27 March 2003.

The process of developing a local zoning plan begins with municipal council's passage of a resolution on the development of the local zoning plan. A public consultation period (not less than 21 days) is then set during which members of the community may submit proposals to the plan in the indicated form and place.

The governor of a rural municipality notifies the authority competent to consult the draft plan and the local assembly that efforts to develop the local zoning plan have commenced. The draft plan is consulted with the authority competent to adopt local zoning plans (CYMERMAN et al. 2009). The local zoning plan is developed by the competent authority, i.e. the governor of a rural municipality, a town or city mayor. An adopted local zoning plan constitutes an act of local law.

At the stage of developing the local zoning plan, the governor of a rural municipality (town or city mayor), acting through the mediation of the province marshal, submits a request with central government

authorities to convert farmland and forests to alternative uses. The central government authorities are:

1. minister competent for agriculture and rural development – as regards arable land of soil quality class I-III if the compact area of land intended for conversion exceeds 0.5 ha;
2. minister competent for environmental protection or his authorized representatives – as regards State-owned forests;
3. province marshal, having acquired the opinion of the chamber of agriculture – as regards other types of afforested land.

The conversion of other types of farmland to alternative uses does not require the formal consent of the competent authorities.

The relevant request should contain a valid justification for the proposed conversion, it should indicate the farmland area, soil quality class, forest habitat types and the business objectives of the conversion scheme. A map of the municipality, town or city should be attached to the request in line with the provisions of art. 10 of the Act on the protection of farmland and forests.

As part of the last restriction imposed in the process of converting farmland and forests to alternative uses, the areas in question have to be excluded from agricultural and forest production. A decision of the competent authority is required to convert the said land to other uses than farming and forest production. The authorities competent to pass decisions on excluding farmland and forests from production are:

1. territorially competent district governor – as regards farmland;
2. director of a national park – as regards land which is part of a national park;
3. director of a regional board of the State Forest Enterprise – as regards forests.

The decision to exclude land from production is issued prior to the construction permit and, in most cases, it entails an exclusion fee. In view of the provisions of art. 11 section 4 of the Act on the protection of farmland and forests, land is actually excluded from production as of the day an investment scheme commences.

A decision to exclude land from production is not required for arable land of quality class IV, IVa, IVb, V and VI comprising soils of mineral origin. The respective duties and annual fees are not charged in respect of the above land types (BŁASZCZAK 2009).

If a local zoning plan has not been developed for a given area, the proposed investment scheme may be carried out based on the outline planning permission, but only if a competent authority's approval for the

conversion scheme has been obtained or if it is not legally required for the land in question.

In line with the provisions of art. 61 of the Act on spatial planning and management, an outline planning permission is issued only if all of the below requirements have been met:

- 1) at least one adjacent land plot, accessible from the same public road, is built-up in a manner that supports the determination of requirements for new buildings as regards their function, parameters, properties, development and land management indicators, dimensions, architectural design, alignment and density;
- 2) the land plot has public road access;
- 3) the existing or planned utilities satisfy the needs of the construction scheme;
- 4) the land plot does not require a permit to convert farmland and forests to alternative uses or a relevant permit has been issued during the development of the local zoning plan;
- 5) the decision is consistent with other legal regulations in force.

The above information has to be indicated in the planning permission request.

Detailed regulations for issuing decisions to exclude land from production and the relevant exclusion charges are stipulated in chapter 3 of the Act on the protection of farmland and forests of 3 February 1995.

A fee is charged in respect of land excluded from farming production. The relevant fee comprises duties and annual charges. An additional fee – compensation for the premature felling of trees – is charged in respect of forests.

Duties, a one-off payment in virtue of the permanent exclusion of land from production, are paid within 60 days after the respective decision enters into force. The value of land, determined in accordance with real estate prices applicable to the given location, is deducted from the dues on the day the land is actually excluded from production. The value of dues is determined by the quality class of soil or forest habitat type. Dues are expressed in terms of wheat grain tons (farmland) or cubic meters of wood (forests). The annual charge accounts for 10% of dues expressed in terms of wheat grain tons or cubic meters of wood. If land is permanently excluded from production, the annual charge is paid over a period of 10 years. If the exclusion has been granted on a temporary basis, the annual charge is paid over the actual period of exclusion, but not longer than 20 years. The compensation for the premature felling of trees in forests (excluded from production) is the difference between the anticipated value of the stand at felling age

(determined in the afforestation plan) and its value upon felling. As regards younger stands not fit for production purposes, the relevant compensation is equivalent to the cost of tree planting and maintenance.

The conversion of farmland and forests to alternative uses often provokes the following question: do conversion schemes contribute to spatial chaos and do they disrupt the existing spatial order? If the converted area is covered by the local zoning plan, there is a high probability that spatial order will be preserved. If, however, investment schemes are implemented based on the provisions of an outline planning permission, spatial chaos is a potential risk. The most serious instances of negligence apply to architectural design and building location is space. In many cases, illegal land conversion contributes to the deterioration of open rural space and the natural environment. It limits the option of planning new conservation measures for local ecosystems which are vital for the local community's quality of life.

The above leads to the formation of many dispersed centers of urbanization with poor access to utilities networks which contribute to the fragmentation of the rural landscape and disrupt spatial order. Planning measures often fail to protect soils and their habitat functions of retention reservoirs, buffers and sites of biological value. There is a common belief that the loss of farming functions justifies the absence of legal protection offered to those soils (...) and this conviction contributes to the deterioration of ecosystem quality, it depletes those areas' biodiversity, water retention capacity, flood protection functions, the local microclimate and air quality (STUCZYŃSKI et al. 2008).

Although municipalities are in the possession of many land plots with ample utilities supply, investors often choose cheaper areas without utilities access. This leads to the construction of dispersed residential estates that are deprived of municipal utilities supply as such schemes require vast spending on behalf of the local authorities. Dispersed settlement also stands in contradiction to the concept of dense residential development promoted by the European Union.

Many rural planning experts are of the opinion that farmland conversion procedures should be simplified. They argue that the conversion process should take place at the local level based on the provisions of a local zoning plan which is consistent with the spatial policies of the municipality, the province and the State. The greatest threat to spatial order is posed by outline planning permissions which provide individual investors with a relative freedom of building up farming areas that do not receive statutory protection (KRUPA-DĄBROWSKA 2009).

In line with a recent draft resolution, the municipal authorities will indicate areas intended for urban and residential development in the land use plan. The areas covered by the land use plan do not have to be situated within the administrative boundaries of a town or village. Land plots found in such areas will be exempt from the provisions of the Act on the protection of farmland and forests. This means that a land plot will be suited for construction regardless of whether it is covered by the local zoning plan. For construction to take place, the land plot has to be situated in an area intended for urban development and the investor has to obtain an outline planning permission (KRUPA-DĄBROWSKA 2009). In the light of the draft resolution, municipalities will no longer have to request the competent authorities' consent to convert farmland to alternative uses.

The amendments to the Act on the protection of farmland and forests, scheduled for implementation in 2010, modify the method of calculating the fee for excluding land from agricultural production. The new fee will be set in accordance with the official indicators published by the Central Statistical Office, rather than the price of wheat. Future prices of wheat will show whether the change is beneficial for investors.

Farming areas and forests are also found in urban areas within the administrative boundaries of towns and cities. As indicated by the statistical records of the Head Office of Geodesy and Cartography of 2007, arable land has a 46% share of the combined area of Polish towns and cities. Farmland has the following share of the area of selected Polish cities:

- Katowice – 14%
- Szczecin – 19%
- Olsztyn – 23%
- Warsaw – 29%
- Białystok – 32%
- Poznań – 34%
- Lublin – 39%
- Gdańsk – 38%
- Wrocław – 44%
- Opole – 53%

Cartographic data indicate that farmland's share of Polish urban areas ranges from several (8% in Świnoujście) to several dozen (76% in Zambrów) percent.

The amended principles of managing farmland situated within the administrative boundaries of urban areas have entered into force on

1 January 2009 (the Act of 19 December 2008 on amending the Act on the protection of farmland and forests). Art. 5b of the amended Act on the protection of farmland and forests reads as follows:

*The provisions of the Act do not apply to farmland that constitutes agricultural acreage within the administrative boundaries of urban areas.*

The above implies that the previous procedure of excluding farmland from agricultural production in urban areas **does not apply only to arable land**, i.e. agriculturally utilized areas, orchards, permanent meadows, permanent pastures, built-up farmland, ponds, ditches. The remaining types of farmland, including forests, situated within the administrative boundaries of towns and cities are subject to the conversion proceedings applicable before the amendment.

The zoning designation of land was not modified by the amended Act on the protection of farmland and forests. The above indicates that in urban areas, real property indicated as farmland in the land register will retain its status, but it may be built-up without an administrative procedure, a decision to modify the land plot's zoning designation and exclude it from agricultural production (POLIT 2009). In view of the above, a fee for excluding the land plot from production will no longer be charged.

Following the enforcement of the above amendment, changes in the zoning designation of farmland still require the adoption or modification of the local zoning plan and the completion of the entire planning procedure which ends with a resolution of the municipal council, the adoption of a new zoning plan or the modification of an existing plan.

The owners of arable land in urban areas may continue to use their property in the previous manner. Land owners will continue to pay farm tax, and owners who actually cultivate farmland within city boundaries may apply for EU grants. Owners become payers of real property tax as of the moment the status of their property is changed from farmland to, for example, residential plots in the land register.

The simplified procedure of modifying land status does not apply to all types of agricultural land plots. The Act sets forth a long list of land types which constitute farmland but which are not used for agricultural purposes, including access roads to farmland (art. 2 section 1 point 10 of the Act on the protection of farmland and forests). The legislator's negligence could create serious problems for both investors and civil officers. In line with the provisions of the amended Act, in the absence of a local zoning plan, farmland no longer has to be converted to alternative use. The investor is only under obligation to acquire an outline planning

permission which is issued when all of the five requirements stipulated in art. 61 of the Act on spatial planning and management of 27 March 2003 have been met. One of those requirements is the farmland's (plot's) access to a public road. In many situations, access can be easily provided by building an access road. If the land plot is situated in close vicinity of a public road which can be accessed by building an access road across farmland of soil quality class I-III with the area of up to 0.5 hectares, then the plot can be converted for road use by way of a decision. This solution does not apply in other circumstances in which the investor is bound by the procedure outlined by the Act on the protection of farmland and forests. Unfortunately, the said procedure is lengthy, and the construction of an access road would turn out to be a time-consuming project.

The amended law could also deepen to the adverse consequences of liberal urbanization. The most severe problem is the excessive spreading of urban areas, the dispersion of residential estates built in suburbs without adequate public transport, sewer lines or the accompanying services. A prime example of the above is Warsaw's suburb of Piaseczno with a population of 60 000. According to experts, Piaseczno's population is likely to reach 160 000 in the coming years, but the town has poor road linkage with Warsaw and is presently experiencing water supply problems. The local community's living standards will visibly deteriorate unless Piaseczno's municipal infrastructure is expanded to accommodate its growing needs.

The encroachment of built-up areas on greens could prove to be yet another adverse consequence of the amended law. As part of their green policies, local authorities should strive to protect green areas of adequate quality and quantity as they are a common good of the local community. Sustained urban development schemes, as part of which built-up areas are intertwined with greens, support the construction of small residential estates that foster the growth of interpersonal relations and a local sense of belonging.

The urbanization of fertile soils and the conversion of weak soils into recreational areas and greens significantly lowers erosion control, it increases air dustiness, lowers the habitat's biological productivity, decreases oxygen production, inhibits the growth of plants, including tall vegetation, deepens the adverse thermal effects of urbanization, deteriorates esthetic qualities and lowers the water retention capacity of soils.

The belief that demand-led urbanization justifies the degradation of the most valuable soil habitats and the irretrievable loss of their

biological functions is unacceptable and scientifically unfounded. This conflict can be avoided in view of a very high supply of weak soils in Poland's soil cover. Soils which due to their buffer and biological capacity are classified as the most valuable habitats account for only 30% of all soils in the country (STUCZYŃSKI 2008).

In addition to architectural monuments and museums, well-maintained greens provide every urban area with excellent promotional opportunities. Warsaw is a prime example of the above: due to the shortage of funds for managing the channel of the Vistula River, the Polish capital unexpectedly became a model example of an urban river management scheme on the European scale.

The amended Act on the protection of farmland and forests brings new opportunities and threats for arable land within the administrative boundaries of urban areas, as listed in the table below.

Table 1

Opportunities and threats brought about by the amended Act  
on the protection of farmland and forests

<b>Opportunities</b>	<b>Threats</b>
Higher municipal revenues in virtue of real property tax	Rapid increase in property market speculations
Higher supply of land plots zoned for development increases the number of investors	Uncontrolled investment in areas that are not adequately prepared for development schemes
Faster and simplified farmland conversion procedure	Degradation of biologically valuable habitats in urban areas
Growing supply of land plots dampens the increase in the price of apartments	Increased road traffic
Speeding up of investment procedures	The construction of utilities networks, including sewers and roads, lags behind residential development

*Source: own data*

## Conclusions

The amended Act on the protection of farmland and forests simplifies, limits and shortens the procedure of farmland conversion to alternative uses. The relevant procedures have to be cohesive to support dynamic and rational spatial development, while fulfilling the local community's needs and ensuring adequate living standards. Despite the above, a more elaborate definition of soil protection is needed, and legal grounds have to be created for preserving valuable soil habitats to ensure the sustained development of rural and urban areas. Changes in the zoning designation of farmland introduced in planning documents should account for the land's environmental and scenic features in both rural and urban areas.

Let us hope that a simplified farmland conversion procedure will contribute to the development of model planning and management schemes in rural and urban areas.

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