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Location of Animal Shelters in the Local Spatial Development Plan in Poland

Introduction

The local spatial development plan is the basic and at the same time the most effective instrument for shaping spatial order in Poland. This act, issued by the commune council in a complicated, multi-stage procedure with public consultation, having the force of an act of universally binding law, determines the purpose and manner of management and development of the area in which it applies.[1] When shaping the local plan, the administration bodies must take into account a number of values that make up the idea of spatial order and sustainable development, such as landscape values, environmental protection requirements, including water management and protection of agricultural and forest land, health and safety requirements for people and property, economic values of space, as well as property rights.

Although the legislature did not distinguish animals as a separate asset requiring protection at the level of spatial planning, it is undoubtedly a value that is within all of the above-mentioned values. Animal protection may be implemented in the local plan in various ways, e.g. by preserving and maintaining in proper condition the existing habitats of plant and animal species for which the Natura 2000 area was designated, introducing restrictions or even prohibitions of development of areas where pro-

[1] The procedure for adopting the local spatial development plan and the elements of its content are specified in the Act of 27 March 2003 on Spatial Planning and Development (Journal of Laws of 2018, item 1945, as amended).

tected animal species occur, or introducing restrictions or prohibitions of economic activity. The protection of animals in the local plan does not include only species protected under separate regulations. It also applies to animals not subject to species protection but intended for breeding. The role of the local plan, as an instrument for spatial planning, is to establish appropriate spatial standards for animal husbandry, so as to ensure the welfare of farm animals and, in addition, to eliminate or minimize the negative aspects of animal husbandry, such as odour and noise. Another, no less important aspect of animal protection in the local spatial development plan, is the location of shelters for homeless animals.

Limitations on the planning authority of the commune on the location of shelters for homeless animals in the local spatial development plan

In the current legal status, in view of the unambiguous wording of Art. 11 para. 1 of the Animal Protection Act of 21 August 1997 (hereinafter referred to as APA)[2] and Art. 3 of the Act of 13 September 1996 on Maintaining Cleanliness and Order in Communes,[3] there is no doubt that the burden of providing care to homeless animals, trapping of homeless animals and protection against them is borne by communes,[4] constituting their obligatory own task. Trapping of homeless animals takes place exclusively on the basis of a resolution of the commune council defining annually until 31 March the programme of care for homeless animals and prevention of homelessness of animals, including, *inter alia*, providing a place for homeless animals in a shelter for animals (Art. 11 para. 3 of APA in conjunction with Art. 11a para. 1 and 2 point 1 of APA). The obligation to trap animals is, in principle, possible only if there is sufficient room for animals in the shelter, unless they pose a serious threat to people or other animals (Art. 11 para. 3 of APA).

Pursuant to Art. 4 point 25 of APA, an animal shelter is a place intended for the care of domestic animals which meets the conditions laid down in the Act of 11 March 2004 on the Protection of Animal Health and the Fight against Infectious Diseases of Animals[5] (i.e. veterinary requirements: location, health, hygiene, sanitary, organizational, technical or technological, protecting against epizootic and epidemic risks).

[2] Journal of Laws of 2019, item 122, as amended.

[3] Journal of Laws of 2018, item 1454, as amended.

[4] In accordance with the definition provided in Art. 4 para. 16 of APA, the term "homeless animals" shall be understood as domestic or farm animals which have escaped, strayed or been abandoned by a human being, and it is not possible to determine their owner or another person under whose care they have been permanently cared for so far. It follows from the definition that homelessness may concern only those animal species which are traditionally under the care of a human being (utility or domestic animals).

[5] Journal of Laws of 2018, item 1967, as amended.

Location of this facility in the commune may take place with the alternative use of one of two legal instruments: a resolution of the commune council on the local spatial development plan, being an act of local law, or a decision on determining the conditions of development and land use, issued by the executive body of the commune in the area for which the local plan was not adopted. The animal shelter has now been classified as a public purpose project[6] and consequently the investor, when submitting an application for determining its location, no longer has to meet the conditions set out in Art. 61, at the forefront of the so-called condition of good neighborliness, which does not apply to the public purpose project. The widest scope of planning freedom is available to the municipal council when it adopts the local plan. Of course, this is not an unlimited freedom, as the public authorities in a democratic state governed by the rule of law do not have such a freedom.

The limits of this freedom are determined by constitutional principles, including the principles of social justice and proportionality, as well as the values and interests to be taken into account in defining the purpose for which the area is to be developed and the manner in which it is to be used. When adopting local plans, municipal authorities are bound not only by the Constitution and statutes, but also by regulations contained in secondary legislation as higher-level acts in the hierarchy of sources of law. The existence of such restrictions is particularly important in the case of locating in the local plan those projects whose functioning is generally considered burdensome for the environment. Such projects include shelters for homeless animals.

Society demands that public authorities establish an effective system of care for homeless animals, expecting that this system will provide a decent standard of living for animals and protect people from attacks from them and from the spread of zoonoses. On the other hand, however, municipal residents are generally opposed to animal shelters being located close to where they live. It would seem that a simple solution to this problem is to locate shelters away from human settlements, where the inconveniences associated with the operation of the shelter would be imperceptible to the residents. However, the problem is much more complex, because when locating a shelter, it is necessary to ensure convenient and easy access for volunteers and animals willing to adopt animals. This problem will probably not be solved by locating the shelter in distant, inaccessible wastelands.

The importance of the issue of locating shelters in the area of communes is evidenced by the intensity of social protests and comments made in the procedure of adopting the local plan, whenever the commune authorities intend to include the localization of the shelter in the local plan. The functioning of the animal shelter is

[6] In Art. 6 of the Act of 21 August 1997 on Real Estate Management (Journal of Laws of 2018, item 2204, as amended), point 9c was added, which refers to the performance of equipment or structures for preventing or combating infectious diseases of animals, which is a very capacious category.

perceived as a source of atmospheric pollution, possible contamination of water and soil, a source of noise and odour, as well as a source of exposure of people to zoonotic infectious diseases and animal attacks. All these factors reduce the market attractiveness and thus the value of properties located in the vicinity of animal shelters.

Therefore, there is a typical conflict of interest in the sphere of spatial planning: the public interest, and – specifically – the interest of the commune, which has a statutory obligation to provide care for homeless animals, protection against homeless animals and the interest of property owners located in the vicinity of the planned location of the shelter, who – although as members of the community – are thus also protected against homeless animals, but are interested in maintaining the *status quo* on their properties. This is a typical example of the attitude of real estate owners towards public projects implemented in their neighborhood, which in the Anglo-Saxon spatial planning system was called NIMBY ("not in my backyard").

As far as legal regulations "imposing" restrictions on municipal authorities regarding the location of animal shelters in the plans of local animal shelters are concerned, they are in fact residual. The most important limitation, aimed at preventing or at least minimizing threats related to the location of a shelter for animals, is contained in para. 1 section 1 of the Regulation of the Minister of Agriculture and Rural Development of 23 June 2004 on Detailed Veterinary Requirements for Running Animal Shelters,[7] according to which, the animal shelter should be located in a place at least 150 m away from human settlements, public utility facilities, plants belonging to entities conducting business activity in the field of production of animal products, plants belonging to entrepreneurs conducting business activity in the field of production of animal nutrition, plants conducting business activity in the field of collection, storage, operation, processing, use or disposal of animal by-products, slaughterhouses, fairs, shoots, zoological gardens and other places of animal collection.

On the other hand, pursuant to Art. 2–5 of that regulation, in view of the need to ensure appropriate living conditions for the animals, the plan should provide for a sufficiently large area for the location of the shelter to allow for the separation of the necessary premises and boxes for the animals, to ensure their free movement, bedding and constant access to drinking water, as well as an open-air enclosure for the animals to behave in a manner appropriate to particular species.

When locating a shelter whose operation may generate noise not only from animals but also from motor vehicles, the municipal authorities are also required to include in the local plan the permissible noise levels laid down by the noise indicators LDWN, LN, LAeq D and LAeq N in the Annex to the Order of the Minister for the Environment of 14 June 2007 on permissible environmental noise levels[8] for the following

[7] Journal of Laws No. 158, item 1657, as amended.

[8] Art. 113 para. 2 point 1 of the Act of 27 April 2001 on Environmental Protection Law (Journal of Laws of 2019, item 1396).

types of land actually developed: a) for housing, b) for hospitals and social welfare homes, c) for buildings designed for permanent or temporary stay of children and young people, d) for spa purposes, e) for recreational purposes. The applied solution to the problem of acoustic nuisances is, e.g. locating shelters in the lowering of the area between embankments or other hills, which are natural acoustic screens.

Polish law has not yet introduced norms regulating the permissible level of unpleasant odour emission.[9] The methodology of odour measurement has not been developed, therefore, it is not possible to carry out inspection in the scope of determining odour nuisances, including emission control measurements or odour air quality.[10] The Code of Counteracting Odour Nuisance prepared in 2016 in the Air and Climate Protection Department of the Ministry of Environment is not a legally binding act, but only a collection of comments and recommendations of unquestionable educational and information value. There is no doubt that odours reduce the comfort of life, cause intensification of such adverse psychosomatic symptoms as: irritation, headaches, nausea, difficulties with concentration, loss of appetite, difficulties with falling asleep.[11] Moreover, they reduce the tourist attractiveness of areas exposed to their impact and also lower the market value of properties located therein (their unfavourable impact is therefore similar to the impact of noise).[12]

Therefore, odour nuisances can only be prevented indirectly by applying appropriate legal regulations concerning the location of specific projects emitting odours, assessment of their impact on the environment and legal regulations on construction. It is not true that since there are no anti-odour regulations at the central level, they cannot be introduced by local lawmakers. On the contrary, the lack of such regulations means that it is the local legislature who bears the burden of preventing social conflicts related to the emission of nuisance odours.

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[9] Authorisation for the Minister of the Environment under Art. 222(5) of the Act of 27 April 2001 – The right to environmental protection to issue a regulation establishing reference values for fragrance substances in the air and methods of assessing the fragrance quality of air has not been implemented. Admittedly, on 26 January 2010, The Minister of the Environment issued a regulation on reference values for certain substances in the air, but it does not concern the permissible levels of odoriferous substances.

[10] The Ombudsman's statement to the Minister of the Environment on the lack of regulations concerning odour nuisances (odour imissions), https://www.rpo.gov.pl/sites/default/files/Do%20M%C5%9A%20w%20sprawie%20braku%20przepis%C3%B3w%20dotycz%C4%85cych%20uci%C4%85%C5%BCliwo%C5%9Bci%20zapachowych%20powodowanych%20przez%20zak%C5%82ady%20przemys%C5%82owe.pdf [access: 21.09.2019], p. 6.

[11] B. Krajewska, J. Kośmider, *Standardy zapachowej jakości powietrza*, „Ochrona Powietrza i Problemy Odpadów" 2005, Nr 6, pp. 181–191.

[12] *Kodeks przeciwdziałania uciążliwości zapachowej*, Departament Ochrony Powietrza i Klimatu Ministerstwa Środowiska, Warszawa 2016, https://www.gov.pl/web/srodowisko/uciazliwosc-zapachowa [access: 21.09.2019]. See also the Polish Ombudsman's letter of 27 October 2016, ref. No. V.7203.5.2014.PM, https://www.rpo.gov.pl [access: 21.09.2019].

One of the most effective legal instruments available to the commune body in this area is the local spatial development plan. Since this act determines the purpose and manner of management of the real estate covered by it, it may thus prevent or limit the conduct of activities involving the emission of odours in a given area. The findings of this act are related to the administrative bodies at further stages of the investment and construction process, including the stage of issuing decisions on environmental conditions, water and legal permits and decisions on building permits. The question remains how the commune council should formulate the provisions of the plan to prevent social conflicts caused by odour nuisances resulting from the operation of specific projects, including animal shelters.

In countries where odour emission standards have been introduced, legal solutions are based on several different models,[13] which can also be applied jointly, i.e. the model of maximum impact standard; minimum distance between installations and other facilities or areas (separation distance standard); maximum emission standard; or the number of complaints received by authorities or the level of irritation confirmed by surveys conducted among the local community (maximum annoyance standard). The Polish local legislatures usually use a model based on the definition of minimum distances in which projects that are sources of odour from specific objects or areas may be located. This method is most frequently used in the case of the so-called assessment of odour nuisance of fugitive emission facilities, which include facilities related to animal husbandry.[14]

Therefore, the municipal council may introduce a ban on locating such projects in a given area in the local plan, or – by allowing such localization – limit it, e.g. by determining the permissible size of the project or introducing minimum distances between the project and specific areas and objects.[15] In the case of a shelter for homeless animals, the commune council is bound by the minimum distance resulting from the aforementioned regulation of the Minister of Agriculture and Rural Development (150 m). However, the planning authority has the power to extend that distance

[13] E. Jachnik, *Prawne aspekty ochrony zapachowej jakości powietrza*, „Przegląd Prawa Rolnego" 2017, Vol. 1(20), pp. 149–163.

[14] For plants with organised emissions, the approach based on the criterion of permissible airborne odour concentration (imission standard) expressed in units of odour concentration OU/m^3 shall prevail, for which the maximum annual exceedance frequency shall also be reported. K. Kapusta, *Ochrona zapachowej jakości powietrza. Doświadczenia światowe w świetle potrzeby unormowań prawnych w Polsce*, „Prace Naukowe GIG – Górnictwo i Środowisko" 2007, Nr 4, p. 49; L. Woźniak, *Regulacje prawne dotyczące przeciwdziałania uciążliwościom zapachowym (odorom) w wybranych krajach Unii Europejskiej*, Warszawa 2014, p. 19ff.

[15] G. Rząsa, *Miejscowy plan zagospodarowania przestrzennego jako prawny środek ochrony przed uciążliwościami odorowymi – wybrane zagadnienia*, „Zeszyty Naukowe Sądownictwa Administracyjnego" 2019, Vol. 1(82), p. 51. See also judgment of the Supreme Administrative Court of 14 March 2018, II OSK 1281/16; judgment of the Regional Administrative Court in Warsaw of 2 December 2016, IV SA/Wa 751/16, CBOSA.

from areas intended for human habitation if, e.g. an eco-physiographic study or an environmental impact assessment show that due to the expected number of animals in the shelter or equipping the shelter with furnaces for burning animal corpses, the nuisances related to its functioning will cover a larger area. At the same time, it is important to observe the requirements of proportionality and balancing the interests.[16] In particular, the current development of the area, including the presence of installations emitting odours in the area (or in the areas adjacent to the area covered by the local plan), is important. The higher the "saturation" of such installations in a given area, the stricter restrictions may be introduced in the local plan (in terms of future accumulation of odour impacts).[17]

The requirement to locate a shelter at least 150 m from human settlements was introduced mainly in order to minimize epidemiological risks, epizootic hazards and odour and noise nuisances. The introduction of this distance standard also has the unintended and socially undesirable effect that it is in fact a barrier to the establishment of small shelters in communes with between 10 and 20 animals. If one considers that a shelter must include a number of rooms and runs for animals and its own infrastructure, a plot of several hectares must be allocated for its location, taking into account the distance requirement. A minimum 150 m buffer zone should therefore be established around the shelter to ensure that no human settlements are established closer to the shelter as a premise for the closure of such a shelter.

The average number of homeless dogs (these animals are considered to be the source of the greatest threats) in the Polish community is 40 per year, while 73% of the communities declare that they catch 10 homeless dogs per year.[18] Therefore, activists of animal protection associations claim – not without reason – that such a number of homeless animals could be provided with good care in a small building with several boxes located, e.g. in the back of a municipal animal clinic or in a farm, i.e. close to human settlements, without putting anyone at risk of inconvenience or danger.

The homeless animal shelters vision adopted by the legislature, which results in the introduction of a distance standard applicable to all shelters, regardless of their size, applies to establishments of mass isolation and possible elimination of animals in the event of an epidemic of infectious diseases, e.g. rabies. Such a way of thinking about shelters does not give a chance to create an effective system of animal care. It may also be added that the anachronism of the distance standard is confirmed by the fact that over half of shelters in Poland, including the largest Polish shelter "Na Paluchu" in Warsaw, do not meet this standard. Another problem is that the provisions of the regulation do not specify how to measure the distance of 150 m – whether from the

[16] J. Chmielewski, *Problematyka prawna uciążliwości zapachowych w planowaniu i zagospodarowaniu przestrzennym na obszarze gminy*, „Samorząd Terytorialny" 2019, Nr 3, pp. 52–64.

[17] G. Rząsa, *op. cit.*, p. 60.

[18] *Wymagania weterynaryjne z kosmosu*, http://www.boz.org.pl/iw/150/150_metrow.htm [access: 04.10.2019].

borders of land plots or from the edges of buildings intended for human habitation. The legislature also failed to define what should be understood by the term "human settlement", which may raise significant doubts, e.g. when assessing whether the human settlement is a built-up plot of land with a holiday house used only seasonally. Finally, it should be added that the legislature is inconsistent in introducing distance standards for shelters for homeless animals, whereas it did not provide for such standards either for zoos or for animal hotels.

The role of "informal" public consultation in the procedure of locating a shelter in the local spatial development plan

The disadvantage of the statutory regulation concerning participation in spatial planning is its late "launch". This is because it occurs only when the planning procedure is officially initiated and the basic form of participation, i.e. remarks, is updated when the draft planning act is ready and the spatial conflicts are aggravated. Entities with a key influence on the planning procedure, from the legislature to the municipal authorities, attach too little importance to the preliminary (preparatory, informal) activities that take place at an early conceptual stage, even before a resolution is passed on the commencement of the preparation of the planning act. The lack of due diligence on the part of the commune authorities in carrying out preliminary analyses aimed at determining the actual need to adopt a local plan in a given area, or in changing the planning act, as well as in determining the factual and legal status of the properties covered by the future act, cannot be justified only by a residual, laconic statutory regulation in this respect. A rational local legislator should be aware that the adoption of such a complex, multi-layered and inherently conflicting act requires comprehensive spatial, social, political, legal and economic analyses in a given area. Considering such a broad research area, it should make public consultation an element of the preparatory process.

Confronting various values, interests and expectations at the stage of conceptual works may become a source of valuable information for the commune authorities concerning preferences in the area's designation and development, and it will also allow them to identify the parties to potential disputes in the process of adopting a spatial planning act.[19] Lack of participation at the stage of shaping the planning assumptions generates uncertainty of the legal situation of the commune, making its participation at further stages of the procedure of adopting the planning act and – as a consequence – influence on the final decisions taken illusory. Since legal regulations are the basic reference framework for all activities of public administration, there is no doubt that

[19] A. Gójska, P. Kuczyński, B. Lewenstein, I. Pogoda, E. Zielińska, *Konsultacje społeczne w przestrzeni wielkomiejskiej. Ochocki Model Dialogu Obywatelskiego*, Warszawa 2012, p. 19.

they are also the most important factor in socializing spatial planning, indicating the directions and scenarios of activities of the participants in the planning process.[20] However, the tools of participation in the procedures of adopting municipal spatial planning acts and the accompanying procedures of strategic environmental assessment,[21] are insufficient and launched too late, as indicated above. Tomasz Kaczmarek and Michał Wójcicki summarized the views in this respect and created a catalogue of defects in participation in spatial planning, including: a) lack of statutory possibilities of community involvement in the process of preparing assumptions for draft plans and studies, b) limitation of community involvement in the planning process only to the possibility of submitting applications, comments and participating in public discussion, c) low effectiveness of legal instruments such as conclusions and comments on draft plans due to the possibility of not taking them into account by the executive body, d) lack of definition of public discussion on the plan and study presentation, which allows for the use of all possible methods that may be questioned at a later stage, e) limited possibility of translating the results of public discussion into planning decisions, f) lack of regulations concerning the publication of draft plans in the media, including broadcasting of the public discussion.[22]

These drawbacks cannot be negated, but it is worth looking at the legislation regulating the spatial planning process from a different perspective – as it does not create

[20] H. Izdebski, *Samorząd terytorialny. Podstawy ustroju i działalności*, Warszawa 2011, cited in: T. Kaczmarek, M. Wójcicki, *Uspołecznienie procesu planowania przestrzennego na przykładzie miasta Poznania*, „Ruch Prawniczy, Ekonomiczny i Socjologiczny" 2015, Vol. 1, p. 221.

[21] The procedure of strategic environmental impact assessment is regulated in the Act of 3 October 2008 on Access to Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Journal of Laws of 2018, item 2081, as amended). It follows from Art. 46 paragraph 1 of the aforementioned act, that, as a rule, it is obligatory to carry out a strategic environmental impact assessment for a local plan (the abandonment of the assessment in the case of draft spatial planning acts may concern only drafts constituting minor modifications to already adopted acts). Strategic assessment is carried out in order to determine the impact of the planned document (plan, programme) on the environment. The findings made as part of the assessment are subject to opinions of the authorities competent for environmental protection and public discussion with the participation of the public. Strategic assessment is also required in the procedure of amending the resolution on the study and the local plan. The key element around which the strategic assessment procedure focuses is the environmental impact assessment, which is attached to the municipal projects of general spatial planning acts. In the system of spatial planning, the forecast is, as a rule, non-normative, forecasting and informational, not binding on either the authorities or the public. Its role is to ensure that environmental protection aspects are treated equally to social, economic and other aspects that the authority has to take into account in the planning process. Notwithstanding the above, the forecast is the central link around which the strategic assessment procedure takes place, determining the next steps of the procedure – the cooperation of authorities and public participation. It is a document that is presented for public review together with a draft study/local plan and is the subject of public discussion. Its findings may constitute a basis for comments on the draft of these acts.

[22] *Ibidem*, p. 226.

any obstacles for the local legislature to develop forms of community participation in this process. The legal basis for additional consultation in spatial planning is the provision of Art. 5a of Act of 8 March 1990 on Municipal Self-Government.[23]

A factor potentially increasing the effectiveness of such early consultation is the place and form in which it takes place. They do not take place at the commune office building, where individuals feel like petitioners, but in public places, such as common rooms, schools, kindergartens, community centers. The second such factor is involvement in the organization and course of consultations, apart from the employees of the commune office and planners, also members of housing estate councils or village councils.[24] The third one is a form of such consultations, which can be a free discussion, during which anyone can speak, including the submission of an informal proposal. At this stage, when the draft act is not yet ready, consulted and agreed, there is a real chance to present their positions to individuals who are not organized in the so-called urban movements, or not affiliated with non-governmental organizations, which often "take over" the obligatory public discussion held after the opinion and agreement on the draft act of planning. What is important, the consultation process is recorded in an audio form and made available to interested parties. An effective form of informal consultation can also be the submission of a draft study or local plan to the district councils, housing estate councils or village meetings, i.e. to the resolution bodies of the auxiliary units of the municipalities, for their opinion.[25]

Such informal social consultation took place in Sopot, where after almost a decade of disputes and social protests, the "Sopotkowo" animal shelter was opened in 2016. Although this shelter was located on the basis of a decision to determine the location of a public purpose project, the consultation method applied there may also be used when the location of the shelter is based on a local plan. Before the formal initiation of the locating procedure, the Sopot authorities proposed three alternative locations for the shelter to the residents and set a deadline for them to choose from any of the options in electronic form via the Internet or in traditional form – by throwing a filled-in paper questionnaire available in various public places into the ballot box

[23] Journal of Laws of 2019, item 506, as amended. J.H. Szlachetko, *Konsultacyjne formy udziału społeczeństwa w planowaniu przestrzennym*, „Metropolitan. Przegląd Naukowy" 2016, Nr 3, p. 35.

[24] Magdalena Kalisiak-Mędelska draws attention to the untapped potential of the commune's auxiliary units, which are predisposed to create conditions to counteract the alienation of power from the real problems of local communities, or may become a "breeding ground" for local leaders who will promote the idea of participation at further levels of the local government career. Unfortunately, as the author emphasizes, in the present legal form and manner of operation, they are rather a relic from the beginning of building a democratic state due to the lack of independence, both organizational and financial (they operate within the legal entity of the commune and the commune budget or the rural community fund – *Partycypacja społeczna na poziomie lokalnym jako wymiar decentralizacji administracji publicznej w Polsce*, Łódź 2015, p. 273, 310).

[25] http://www.poznan.pl/mim/konsultujemy/ [access: 23.04.2019]; T. Kaczmarek, M. Wójcicki, *op. cit.*, pp. 226–229.

(people aged 16 and over could vote). Residents were also given the opportunity to submit their own proposals for the location of the shelter, which met the criteria of distance from buildings, land development, proximity to public transport or surface area. In the period preceding the vote, the Sopot city council organized a number of information meetings with the residents. As a result, one of the locations proposed by the city authorities was chosen.

The main benefits of introducing informal tools of participation in the planning procedure, especially where the location of the project entails a social protest, are, above all, increasing the spectrum of possibilities for stakeholders to obtain information on the conditions and directions of spatial planning in a given area, making individuals aware of their rights and obligations in the planning procedure, a chance to build a forum for agreement between officials and inhabitants of the commune, and thus, a chance to reduce the scale of spatial conflicts, and shortening the official, formal procedure of adopting a spatial planning act.

Conclusions

The establishment of animal shelters is now the best-known solution for the care of homeless animals. The problem of homeless animals may be reduced by introducing a general obligation of the microchipping of animals, which will allow for quick identification of their owners. However, this is a costly undertaking, requiring the introduction of appropriate technical and IT solutions, which, however, at the current state of technology, is realistic.[26] Until an effective system to prevent the abandonment of animals is established, it is necessary to review the views on the essence and basic, overarching objective of establishing shelters, which is not to prevent infectious diseases, but to ensure that animals are cared for. The change of the current approach of the legislature, and consequently, the change of an excessively strict, anachronistic standard defining the minimum distance between a shelter and human settlements, could result in the creation of many small communal shelters for a few or a dozen or so animals. This would allow communities to fulfil their statutory tasks and save money spent every year on sending homeless animals to distant shelters located in other communities.

[26] Microchipping is the most durable way to mark animals. Actions of free dog microchipping have been carried out in the Lublin region for at least 6 years, but they have been poorly received by the public. The owners do not enjoy this privilege because – allegedly – they do not want to be listed in pet owners' databases.

References

Chmielewski J., *Problematyka prawna uciążliwości zapachowych w planowaniu i zagospodarowaniu przestrzennym na obszarze gminy*, „Samorząd Terytorialny" 2019, Nr 3.

Gójska A., Kuczyński P., Lewenstein B., Pogoda I., Zielińska E., *Konsultacje społeczne w przestrzeni wielkomiejskiej. Ochocki Model Dialogu Obywatelskiego*, Warszawa 2012.

http://www.poznan.pl/mim/konsultujemy/ [access: 23.04.2019].

Izdebski H., *Samorząd terytorialny. Podstawy ustroju i działalności*, Warszawa 2011.

Jachnik E., *Prawne aspekty ochrony zapachowej jakości powietrza*, „Przegląd Prawa Rolnego" 2017, Vol. 1(20).

Kaczmarek T., Wójcicki M., *Uspołecznienie procesu planowania przestrzennego na przykładzie miasta Poznania*, „Ruch Prawniczy, Ekonomiczny i Socjologiczny" 2015, Vol. 1.

Kalisiak-Mędelska M., *Partycypacja społeczna na poziomie lokalnym jako wymiar decentralizacji administracji publicznej w Polsce*, Łódź 2015.

Kapusta K., *Ochrona zapachowej jakości powietrza. Doświadczenia światowe w świetle potrzeby unormowań prawnych w Polsce*, „Prace Naukowe GIG – Górnictwo i Środowisko" 2007, Nr 4.

Krajewska B., Kośmider J., *Standardy zapachowej jakości powietrza*, „Ochrona Powietrza i Problemy Odpadów" 2005, Nr 6.

Rząsa G., *Miejscowy plan zagospodarowania przestrzennego jako prawny środek ochrony przed uciążliwościami odorowymi – wybrane zagadnienia*, „Zeszyty Naukowe Sądownictwa Administracyjnego" 2019, Vol. 1(82).

Szlachetko J.H., *Konsultacyjne formy udziału społeczeństwa w planowaniu przestrzennym*, „Metropolitan. Przegląd Naukowy" 2016, Nr 3.

Woźniak L., *Regulacje prawne dotyczące przeciwdziałania uciążliwościom zapachowym (odorom) w wybranych krajach Unii Europejskiej*, Warszawa 2014.

Wymagania weterynaryjne z kosmosu, http://www.boz.org.pl/iw/150/150_metrow.htm [access: 04.10.2019].

Abstract: The local spatial development plan is the basic and, at the same time, the most effective instrument for shaping spatial order in Poland. This act, issued by the commune council in a complicated, multi-stage procedure with public consultation, having the force of an act of universally binding law, determines the purpose and manner of management and development of the area in which it applies. When shaping the local plan, the administration bodies must take into account a number of values that make up the idea of spatial order and sustainable development. Although the legislature did not distinguish animals as a separate asset requiring protection at the level of spatial planning, it is undoubtedly a value that is within all of the above-mentioned values. Animal protection may be implemented in the local plan in various ways. One of the most important is the location of shelters for homeless animals. The article discusses the problem of locating animal shelters in the local spatial development plan in the context of social conflicts connected with it.

Keywords: animal protection; animal shelter; local spatial development plan; conflict of interest; noise and odour nuisances; public consultation