



Suburbanisation uncontrolled? The role of legal framework in limiting the dispersion of built-up areas in Poland

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Abstract. The article aims to determine the legal rationale for the dispersion of built-up areas in Poland and draws some polemical conclusions. The current legislative system of spatial planning and construction is the main cause behind the aggravation of spatial chaos. Built-up areas have been exhibiting dispersed patterns that often contravene natural, technical, infrastructural, economic, social or even legislative imperatives. The authors prove that suburbanisation in the strict sense is not existent in Poland, and that, quite the contrary, the decisions for new investment sites tend to be taken deliberately by landowners, investors and representatives of public administration. The authors review the causes and effects as well as legislative reasons for the dispersion of built-up areas. The text ends with recommendations for legislative changes aimed at counteracting the dispersion processes.

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1. Introduction

The topic of suburbanisation has been recurring in Polish scientific literature for decades. It used to be considered in various perspectives, such as spatial, landscape, technical and social. Despite the broad and consistent interest vested in this topic, the research outcomes cannot be regarded as conclusive or practical enough to result in policy solutions sufficiently efficient to prevent spatial disorder. Unsustainable patterns of built-up areas are still emerging in Poland, deteriorating the space, embedding disharmonious spatial forms and structures, and causing further dispersion in local and regional settlement systems.

But does suburbanisation (in the strict sense) occur in Poland? The answer is positive, if suburbanisation is defined simply as the development of the suburbs. However, if the term also takes into account the context of suburbanisation, i.e. that built-up areas sprawl outwards from overpopulated cities as a result of a lack of land available for specific land uses, then examples are hard to find, because in most cases suburbs develop despite there being a lot of land available for development in city centres.

Is this phenomenon uncontrolled in Poland? The language used in the background literature, including popular science and numerous press articles, where the progressive building up the suburban space is described as “uncontrolled” would suggest so. This is an easy conclusion to draw if one judges purely by the quality of the suburban landscape. However, the authors prove that the expansion of urban space is, in fact, not an uncontrolled phenomenon, since it is in fact subject to a system designed to impose limitations with the objective of maintaining spatial order.

The present article therefore aims to identify

1. the current legislative conditions that relate to where dispersed development that is irreversibly degrading open landscapes is located, and
2. conditions that can be used to stop this process.

2. Research sources and methods

This research consisted in a critical analysis of the literature sources, i.e. monographs, scientific articles and press articles relating to the topic of suburbanisation, dispersion of built-up areas and spatial planning legislation. Based on the conclusions of this analysis and on the authors' own practical experience in the field of local and regional spatial

planning, the causes and effects of a dispersed pattern of built-up areas were determined. Also, it was demonstrated that the spatial arrangement of dispersed built-up areas is not uncontrolled but the result of specific features of the relevant legislation. The first objective was to point out those legislative conditions that, on one hand, trigger the dispersion of built-up areas and lead to irreversible degradation of open landscapes, while on the other hand also having the potential to be used to curb the dispersion processes. In effect, the second purpose of the research was to recommend legislative changes to prevent the further dispersion of built-up areas.

3. Research results

3.1. Definitions

The analysis of the definition of suburbanisation leads to doubtless conclusions that there is a stage of city development that features the depopulation of the central zone and the densification and development of the suburban zone (Wassmer, 2002; Lisowski & Grochowski 2009; Kajdanek, 2012; Saternus, 2013; Foryś, 2013; Harasimowicz, 2018; Kaczmarek, 2020). Somewhat synonymous with this is the phrase “urbanisation of the suburban area” (Lisowski, 2005; Staszewska, 2013; Harasimowicz, 2018) or a pejorative interpretation of progressing urbanisation (Szymańska & Biegańska, 2011), while urban sprawl is its uncontrollable, exuberant variety (Jałowicki, 1999; Wassmer, 2002; Parysek, 2004; Lisowski, 2005; Saternus, 2013; Hołuj & Lityński, 2015; Kaczmarek, 2020).

However, doubts arise over the question whether the phenomenon observed in Poland can really be called suburbanisation, i.e. consisting in an aggregation of urban built-up forms in the suburban area. Urban forms, after all, vary in terms of expressions, involving single-family and multi-family housing supplemented by various types of services and linked by transport networks, with the prescribed role of public transport, e.g. by rail. However, the Polish suburban development landscape displays predominantly a mono-functional housing structure with a limited availability of services, those mainly being of commercial character. The transport function (being a priority in, e.g., the USA) is negligible in Poland, as it relies primarily on private transport. Therefore, the phenomenon occurring in Poland should be called “dispersion of built-up areas” rather than “suburbanisation”.

The Polish literature on the subject and the respective press articles often use the terms such as “spilling” (polish. *rozlewanie się*) (Kowalewski et al., 2013; Serafin, 2016; Niewiadomski, 2018; Ziemacki, 2019; Gzell, 2020; Śleszyński et al., 2021; Tworek, 2021; Drozda, 2023) and “dispersion” (polish. *rozpraszanie się*) (Hołuj & Lityński, 2015; Bąkowski, 2018; Gzell, 2020) of urban or built-up structures as a linguistic equivalent of “urban sprawl”.

It is clear that urban sprawl is a pejoratively labelled and undesirable phenomenon. Furthermore, the equivalent formulations in Polish in particular imply that there are no agents accountable for its progress and that the cities sprawl by themselves. However, this is not the case, as the pattern is driven by specific decisions of people and institutions.

3.2. Causes and effects of built-up area dispersion in Poland

3.2.1. Causes

The post-war suburbanisation in North America and Europe was sparked by the increase in the wealth of societies driven by economic prosperity and the related dynamic development of single-family housing and individual motorisation. Despite measures aimed at rehabilitation, revitalisation and regeneration of downtown districts – especially in Western European cities – the suburbanisation processes are not weakening at all and still manifest primarily in the development of residential buildings (Kaczmarek, 2020 after Harris, 2010). In Poland, car ownership was the outcome, and not the cause, of residential neighbourhoods developing in the suburbs and in rural areas around cities (contrary to the case of, for example, the USA). The higher rate of motorisation among residents in suburban areas was necessitated by commuting between home and work/school and was never an incentive to move out of cities. In many municipalities, suburban areas that have been inhabited for many years still face poor-quality road infrastructure, as well as ineffective public transport services.

The social reasons for Poland’s suburbanisation are purely limited to the desire to own a house. New residents come to the suburbs in search of peace and quiet, and not to socialise in community networks (Kajdanek, 2012). The palette of planning tools that generate the dispersion of built-up areas has been still growing, resulting in an already impressive list of housing investment sites that lack a local development plan, construction design and building permit (e.g., detached single-story farm

buildings, garages, sheds, home porches, orangeries [winter gardens], detached single-story buildings for private recreation, or farm buildings with a building area of up to 35 m²).

3.2.2. Effects

From the historical perspective, the assessment of suburbanisation is always dichotomous, as urban areas in the history of civilisation have always been valued in two ways; on one hand, cities represented the centres of progress and quality of life, but on the other, they used to be identified as hotbeds of evil; a similar duality of assessments concerns the process of urbanisation in the suburban area (Lisowski, 2005). However, in case of urban sprawl, the assessments are no longer ambiguous. In 2005, Lisowski claimed that we do not know the real scale of threats posed by urban sprawl and how deep an intervention should be undertaken. Yet, Śleszyński (2018) underlined that the risk of chaotic development in the suburbs and the accumulation of social, infrastructural, economic and landscape challenges in Poland, especially in the Warsaw region, is not a new phenomenon, and was predicted by Dziewoński (1988) to happen already before 1989.

Lisowski (2005) stated that sceptics are manipulatively arguing that the negative effects of uncontrolled urbanisation are exaggerated and demanding thorough research. Such studies have in fact been conducted for over a decade, and the unequivocally negative assessment of the quality of the Polish space is expressed even in the titles of these studies, e.g.: (1) Report on economic losses and social costs of uncontrolled urbanisation in Poland (Kowalewski et al., 2013); (2) Studies on spatial chaos (Kowalewski et al., 2018); (3) Ecological and physiognomic costs of spatial disorder (Chmielewski et al., 2018) and (4) Socio-economic effects of spatial chaos (Śleszyński & Kukołowicz, 2021).

Dispersion of built-up areas entails a number of negative effects in the social, ecological, economic, transport and infrastructural spheres. Monofunctional housing estates in suburban areas lack public facilities such as kindergartens, schools, healthcare centres and public spaces. The dispersion of built-up areas causes many problems, ranging from an adverse impact on climate change (especially due to the higher emissivity of single-family houses and private transport serving their residents), to social conflicts involving old and new residents (Drozda, 2023). Moreover, the suburbanisation of cities around the world has also

exacerbated ecological problems. These include the shrinking of arable land, reduced biodiversity and the inefficient use of natural resources (Rose, 2019). Śleszyński (2018) notes that the economic costs of spatial chaos are undoubtedly high but difficult to measure. In Poland, one of the most characteristic and harmful effects of the spatial chaos is the systematic deterioration of transport services, as these are trapped in a negative cause-and-effect loop while serving the needs of settlement networks (Śleszyński, 2018). The underinvestment in technical infrastructure is an additional contributor to the degradation of road infrastructure.

3.3. Is the dispersion of built-up areas uncontrolled?

As illustrated by the quotes above, the source literature on suburbanisation contains numerous expressions containing the adjective “uncontrolled” (Table 1).

“Uncontrolled” development can be understood in two ways: (1) not subject to formal procedures that limit the freedom of the investor/landowner/architect, etc., and (2) done in a way (including through a formal procedure) that ultimately creates the impression that there is no overall pattern to the development.

While in the spatial perspective those processes appear haphazard, and thus uncontrolled according to the looser second definition, the analysis of planning procedures that result in the dispersion of

built-up areas points to specific procedural factors that account for the haphazard outcome. The location of each housing investment or its cluster is overseen through a building permit issued on the basis of either a local spatial management plan or a local zoning approval. Therefore, the determining of the location of new built-up areas is administered by various entities: (1) the county office issuing building permits, (2) the municipal council adopting local spatial management plans, (3) the mayor or president of the city granting a zoning approval, as well as (4) architects and (5) urban planners drafting those plans and permissions. The overall consequences of issuing numerous zoning approvals and adopting a local plan, the provisions of which determine the pattern of new built-up areas in an open landscape, are already foreseeable when these documents are being drafted. Decisions made at the national level and not directly related to spatial planning also contribute to the further dispersion of built-up areas in the suburban countryside. Hence, we can conclude that the development is subject to a system that controls decisions regarding the location of new housing sites, and the use of the term “uncontrolled development” in its strict sense is inappropriate (Zawadzka, 2017). Given that other terms exist that relate to perceptions of the spatial implications of the existing system of control (such as “chaotic”, “haphazard”), we can conclude that the word “uncontrolled” should also not be used to express such concepts that differ so markedly from the word’s stricter meaning. However, we can further conclude that this erroneous use of the word “uncontrolled” to express chaotic development

Table 1. Variety of terms denoting “uncontrolled” suburbanisation in Poland appearing in selected publications

uncontrolled	and chaotic development	Śleszyński et al., 2021
	conversion of agricultural plots for build-up sites	
	development of build-up areas	
	dispersion of build-up areas	Bąkowski, 2018
	dispersion of new build-up areas	Hołuj & Lityński, 2015
	extensive suburbanisation and semi-urbanisation	Śleszyński 2018
	form of space management	Kopeć, 2011
	urban sprawl	Staszewska, 2013
		Ziemacki, 2019
	spread of cities	Foryś, 2013
	suburbanisation	Gliński, 2018
		Krawczyk, 2018
		Szekalska, 2015
	urban development	Śleszyński et al., 2021
urbanisation	Kowalewski et al., 2013	
	Lisowski, 2005	

Source: Authors’ own elaboration

reflects the widespread view that the system of control is not imposing sufficient limitations to achieve a clear set of objectives. This is why more control needs to be introduced and justifies the development of recommendations to improve control in the “Discussion and conclusions” section below.

3.4. Legislative provisions stimulating the dispersion of built-up areas

3.4.1. The existing legislative frameworks contributing to the dispersion of built-up areas

Zoning approvals

The overriding character of a local spatial management plan in relation to local zoning approvals in the *Act of 2003* is emphasised twice (in Art. 4 sec. 1 and 2 and in Art. 50 sec. 1 and Art. 59 sec. 1.) Also, the structure of the *Act of 2003* clearly shows that a zoning approval is not by any means a spatial planning instrument at the municipal level, as it is not referred to in the dedicated chapter of this legislative act but only mentioned at the very end of its substantive content.

As zoning approvals are not bound to comply with statements of a study of the spatial management conditions and directions of the municipality, their issuing process vastly contributes to the occurrence of dispersed built-up areas. Those developments are further bolstered by (1) the freewill interpretation of the term of “adjacent plot”, and (2) the practice – prevalent in the last 20 years – of delineating the investigation area for zoning approval based on just a minimum territorial threshold.

Unfortunately, the zoning approval is now the most commonly used spatial planning tool in Poland. This is due in part to its unmatched advantage over the local spatial management plan (Table 2), which consists in, for example, the ease with which the six conditions necessary to obtain it can be met (for almost 20 years, issuing a local zoning approval was possible if the following five conditions were met:

1. at least one neighbouring plot, accessible from the same public road, is developed in a way that allows for the determination of requirements for new development;
2. the area has access to a public road;
3. the existing or planned infrastructure (e.g., water and energy supply, sewerage) for the area is sufficient for the construction purpose;
4. the area does not require consent to change the intended use of agricultural and forest land for non-agricultural and non-forest purposes;
5. the decision is consistent with separate provisions). The second reason is that there is no administrative option to reject a zoning approval request should those conditions be met (Kopeć, 2011).

A local zoning approval can, hence, be regarded as a pathological planning instrument, as it directly spawns spatial **disorder** (Zawadzka, 2017). And, although zoning approval’s simplicity, speed and involvement of few state institutions mean that it may be seen as contributing to an uncontrolled scheme of spatial management (Kopeć, 2011), an in-depth analysis shows that its preparatory and issuing procedure is actually under the control of the respective authorities.

Table 2. Differences between a local plan and a zoning approval

	Local spatial management plan	Local zoning approval
Compliance with the study of conditions and directions of spatial development	yes	no
List of drafting entities specified in the Act of 2003	art. 5	art. 5 and art 50 sec. 4
Documentation cost	high	low
Issuing authority	municipal council	mayor or president of city
Approximate duration of the procedure	2–3 years or longer	2 months
Number of institutions to be consulted	a lot of	a few
Requirement of public participation	yes (limited – as per the 2003 Act; and broad – as per the 2023 Act)	no

Source: Authors’ own elaboration

Special laws, i.e. special acts

When the legal system is defective, it is not surprising that the legislator then resorts to extraordinary legal instruments – such as special acts. However, these impair the adopted legal regulations (Niewiadomski, 2018). The primary legislative act that creates conditions enabling the dispersion of built-up areas is the so-called “lex developer”, i.e. the Act of 2018. Pursuant to it, an investor may request a municipal council resolution to determine the location of the investment, even contrary to the provisions of the local spatial management plan of the municipality, and in some cases even contrary to the stipulations of the study of the spatial management conditions and directions of the municipality. Another special act implements the “Apartment for the Young” programme (the *Act of 2013*) and specifies the rules for granting financial support from the Subsidy Fund to the purchase of a first home, whether a flat or a single-family house. It applies to flats and houses available on the primary market and purchased by young residents from developers or cooperatives. This act incentivises building new residential estates, mainly in the suburban area (Zawadzka, 2017). One of the elements of the temporary deregulation of the spatial planning system was the controversial Art. 12 of the *Act of March 2, 2020* on special solutions related to the prevention and combating of COVID-19, other infectious diseases and crisis situations caused by them. It was valid for only 180 days – from March 8 to September 5, 2020. It enabled the rapid construction of buildings whose functioning was theoretically to be directly related to the prevention of the COVID-19 pandemic. This article, from the point of view of the spatial and legal order of the state, should be assessed as particularly harmful, as it excluded the operation of other acts. In practice, it turned out that depriving architectural and construction administration bodies of formal control over investments carried based on this provision led to the commencement of a number of different construction investments, mostly with residential and service functions, that were unrelated to the prevention of the COVID-19 pandemic. Such investments were undertaken even in areas excluded from development under separate regulations, such as in Mechelinki (Pomeranian Voivodeship) in the seashore protection zone, in a conservation protection zone and in an area of high flood risk. Such investments were usually constructed in violation of applicable spatial planning documents. The legal assessment of this situation emphasised doubts regarding the principle of public authorities operating on the basis

and within the limits of the law, violation of the principles of the rule-of-law clause, and omission of constitutionally protected civil rights and freedoms, in particular acting in the public interest (Hadel & Zachariasz, 2022).

3.4.2. Legislative provisions whose elimination contributed to the dispersion of built-up areas

Repeal of local plans adopted before 1 January 1995

Based on Art. 87 sec. 1 of the *Act of 2003*, both studies of the spatial management conditions and directions of the municipality and local spatial management plans that were adopted after 1 January 1995 remain valid, while those passed before that date faced expiration. However, in the latter case, the accompanying permits to convert agricultural and forest lands remained due. This had far-reaching consequences, having met the fourth condition necessary to grant a local zoning approval for these areas, pursuant to Art. 61 sec. 2 point 4 of the *Act of 2003*.

Eradication of agricultural land protection tools in cities

The amendment to the *Act of 1995* introduced significant simplifications regarding the allocation of agricultural land for non-agricultural purposes. From 1 January 2009, agricultural land located within the administrative borders of cities, regardless of the class of land, is no longer subject to this protection. It means that the fourth condition necessary to issue a local zoning approval is fulfilled in these areas.

3.4.3. Existing legislative provisions that can be used to prevent the dispersion of built-up areas

Possibility of suspending the administrative proceedings in issuing local zoning approvals

Despite our very critical assessment of changes in the legal regulations for spatial planning, development and construction, there are still a few legal premises that can be applied to rectify the spatial development directions and limit the dispersion of built-up areas. Over the twenty years that the *Act of 2003* has been in force, local spatial management plans have succeeded to cover a mere

31% of the country's area. One of the reasons, as it has been argued, is the unrivalled ease in requesting local zoning approvals as compared with the approval procedure for a local plan. However, it is possible to suspend administrative proceedings for a period not longer than 9 or 12 months in the case of either a local zoning approval request or a building permission for public purpose investment. Adoption of a local plan within 9 or 12 months is not impossible, but it is difficult due to the lengthy planning process, often requiring the repetition of procedure stages.

Possibility of adopting local plans with prohibited development

Article 16 sec. 1 of the *Act of 2003* states that, in the case of local plans prepared solely for the purpose of assigning land for afforestation or prohibiting development, it is allowed to use maps at the scale of 1:5,000, which allows for the least detailed (and thus quickest and cheapest) planning. This means that the dispersion of built-up areas can be vastly reduced by using the purposed local plans (i.e., prohibiting development) at a spatial scale that is more expedient than the basic scale of 1:1,000, in an effort to preserve valuable landscape areas.

Balance review of land purposed for commercial development

Since 2015, to limit the dispersion of built-up areas, the legislation foresees a balance review of the land intended for development which, pursuant to Art. 10 of the Act of 2003 should be drawn up and included in a study of the spatial management conditions and directions of the municipality. The review is expected to define the maximum demand for new built-up areas within the municipal boundaries, based on economic, environmental and social analyses, demographic forecasts and financial capacities of the municipality. The review further includes the estimation of absorptive capacity of areas with a fully developed, compact functional and spatial structure, as well as of areas functionally designated in local spatial management plans. Thereby, it is intended to determine the actual demand for new built-up areas, for which the municipality will be able to finance the provision of access networks, technical infrastructure and social facilities that the municipal administration is in charge of. Unfortunately, local zoning approvals can still be issued also in relation to areas not designated for development in the respective study of the spatial management conditions and directions of the municipality.

Protection of agricultural land in value classes I-III

The provisions of the *Act of 1995* amended in 2015 aim to counteract the dispersion of built-up areas. The exemption from protection applies only to agricultural land in classes I-III, as long as it meets all the four conditions (concerning compact built-up areas) listed in Art. 7 sec. 2a of the *Act of 1995*. For those plots, the fourth condition necessary to issue a local zoning approval is fulfilled. At the same time, in accordance with Art. 93 sec. 2a of the *Act of 1997*, the freedom to divide a plot with an area of less than 0.30 ha has been limited in such a way that the division is only allowed under the condition that the plot in question will be merged with an adjacent one (this, enlarging the compact built-up area) or serves the purpose of delineating plots next to the other.

Provisions introduced by the amendment to the Act of 2023

On July 24, 2023, the President signed the Act of 2023. Noteworthy are the words of the Minister of Development and Technology that “this is a Copernican revolution in the field of planning, as it brings to an end the spatial disorder of Polish cities and villages, an end to **uncontrolled sprawl of built-up areas** (emphasis added) and pathological development in inappropriate places”.

The Act introduced the following changes essential in combating the dispersion of built-up areas:

1. the study of spatial management conditions and directions of the municipality will be replaced by a general spatial management plan, which becomes an act of local law;
2. the general spatial management plan shall designate planning zones and set the maximum absorption capacity of the areas therein (it shall be between 70% and 130% of the demand value for new housing developments in the municipality; if the overall sum of the absorption capacity exceeds 130%, no new planning zones would be permitted to be designated elsewhere in the municipality);
3. the general spatial management plan will be the formal basis not only for local plans, but also for local zoning approvals;
4. local zoning approvals expire five years after the date of entering into force;

5. the maximum extent boundaries of the area under analysis will be established at a distance of 200 m from the borders of the proposed area.

From the point of view of limiting dispersion, the changes introduced in 2023 should be assessed very positively, with one caveat – they were introduced at least 20 years too late. This is because the applicable regulations prevent the dispersion of new buildings and, of course, do not provide grounds for the liquidation of existing ones.

4. Discussion and conclusions

An attempt to curb the advancement of unplanned and spatially chaotic investment can only be effective if changes are made in the current legislative framework. Based on the literature research and authors' own experience, a number of recommendations have been formulated to prevent the further and controlled dispersion of built-up areas.

Only the joint efforts of municipalities and the legislator can lead to an effective spatial management system based on the applicable law (Niewiadomski, 2018). It is important that legislative changes take place at two levels: local and national.

In Poland, there is no effective monitoring of spatial management, while the public statistics are insufficient and unreliable, especially in the areas experiencing high dynamics of investment processes (Śleszyński, 2018). It is particularly urgent to identify and measure the phenomenon of dispersion of built-up areas. The *Act of 2023* introduces a general spatial management plan and requires that the absorptive capacity of the land designated for development be determined. Likewise, it obligates authorities to include a balance review of land intended for development in a study of the spatial management conditions and directions of the municipality.

In operational terms, spatial planning schemes shall be supported by economic instruments. It should be profitable for the municipality to draw up plans, and for an investor to commit resources to a land designated for urbanisation. Therefore, the current system of prohibitions and directives, which results from the principle of good neighbourliness, should be strengthened by the obligation to provide sites and services at the investor's expense and, additionally, by other economic instruments, e.g. a higher real-estate tax (Niewiadomski, 2018).

It is key to introduce an approach in which the organised way of spatial development should become the rule, while investing in an area without a local plan should become the exception to this rule, and therefore the opposite of what is happening today (Niewiadomski, 2018). The *Act of 2023* introduces a general spatial management plan, which will be the referential not only for local plans, but also for zoning approvals.

The most effective solution for preventing the dispersion of built-up areas would be the abolishment of local zoning approvals. Another, albeit a less radical measure, would be to make the issuing of local zoning approvals dependent upon the sufficient coverage of the municipal territory with local plans, e.g. by setting the threshold of 70%.

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