

Measures to Change the Swedish Planning and Building Legislation and Its Application

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SUMMARY

The Swedish Planning and Building Act regulate the planning of land and water as well as building. It is subject of a review. The proposed changes in the Planning- and building legislation aim at strengthening the existing planning and building system. The committee reports and other bodies states that many problems arise from failure to apply the Planning and Building Act. This paper discusses the reviews and the measures taken to improve the legislation and its application.

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1. BAKGROUND

The Swedish Planning and Building Act regulates the planning of land and water as well as building. The Swedish Planning and Building Act is the subject of a review. The law regulating planning and building is a dynamic juridical area. During the past 40-50 years, the regulation of developments have been exposed to many changes. The Planning and building legislation in Sweden was completely revised in 1987 with the introduction of the Planning and Building Act (*Plan- och bygglagen from 1987*). The details of these rules have changed over the years but the fundamental meaning has remained the same.

2. THE REVIEW OF SWEDISH PLANNING AND BUILDING LEGISLATION

2.1 A Parliamentary Committee

2.1.1 The main task for the Committee

The Swedish Planning and Building Act is the subject of a review. A Swedish Parliamentary Committee was appointed in 2002 with representatives from the seven political parties in the Swedish parliament. The committee has submitted its final report in late 2005. The review of the Swedish Planning and Building Act is presented in the report entitled SOU 2005:77 (*Får jag lov? Om planering och byggande*). The report runs to over 1000 pages.

The main task for the Committee was to review the Planning- and Building Act and on the basis of the review submit measures and proposals for changes to the Act.

Another task was to look at the coordination between the Act and the Environmental Code. The goals of the work were to consider the role of the Planning and Building Act as an instrument of sustainable development, to develop the act to correspond to the changes in society and to make possible effective planning and building.

The overall goals of the work for the committee concerns: a) The strengthening of the Planning and Building Act and its position and role as an instrument for sustainable development. b) The development of the Act to correspond to the latest changes in society to make better conditions to create a good environment, possibilities for housing construction, the establishment of trade and industry, and other social planning. c) To develop the Act to better meet the need for efficient planning and building whilst securing and developing justice and the individual's influence over the development process. The committee directive was extensive and the committee had a difficult task in covering the whole directive.

2.1.2 The result of the Committee

The committee states in the result of their investigation that there is unanimity and a great support for the basic principles and the basic structure of the planning and building law. The committee's proposals involve no basic changes to the planning system. The proposals aim at strengthening the existing planning and building system in accordance with the original purposes and the intention of the law when it was first introduced.

The committee has shown that many of the problems are due to inadequate application of the legislation. Furthermore the committee states that many problems arise from failure to apply the Planning and Building Act both in the municipalities (*kommunerna*) and in the Counties (*länsstyrelsen*). The problems also arise from lack of knowledge and understanding of the possibilities and restrictions of the planning and building systems. It also appears to be a lack of method in the handling of issues concerned with the Planning and Building Act. This means that a change in procedures appears most likely to make the planning and decision processes more efficient. The committee state in their report that in their view, few problems are caused by the legislation and indeed that many of the changes suggested in their report are in principle possible to implement through current legislation.

2.1.3 The consultation of the report

The report was put out to consultation during the first half of 2006 and around 420 bodies have made written representations on the committee's proposals. The handling of all the responses from the various bodies who were consulted involved the handling of a very large amount of information. Many of those who were consulted consider the proposals in the committee's report to be well-founded and that the changes proposed could be enshrined in appropriate legislation. This demonstrates that the committee's findings are well-crafted.

Several bodies agree with the conclusion of the committee that development and improvement in competence is much-needed. A common opinion was also that to bring about real changes requires further stronger measures such as training of politician and employees, more resources and increased competence among the local authorities. The central authorities need to give advice and written guide lines on how to apply the legislation.

Some bodies think that although many changes and clarifications are suggested an overall picture is missing. The proposals would change the law but the real problem lies in application of the existing law.

Many of those consulted think the proposals concerning the coordination proposed between the planning processes in the planning and building Act and the trial of environment according to the Environmental Code is insufficient. Until there is coordination between the legislations, i.e. the two acts, the planning and building processes will be ineffective.

2.2 Measures to bring change in the legislation and its application

The Swedish Government has announced that they are planning to make the changes in steps and that the government will introduce several bills making changes in the Planning and Building Act during their term of office. Two such bills has already been introduced.

2.2.1 Introduced Bills

The first bill is on the new Court order (*'Ny instansordning för PBL-ärenden'*) and it is a so called political alignment bill, where the Government is asking the parliament to take a standpoint in the question to decide for a new Court order with this direction. The parliament has decided for a new Court order with this direction. The Government have appointed a committee to investigate the new Court organisation.

The other bill that is already introduced is a bill called 'A first step to a more simplified Planning and Building Act' (*'Ett första steg för en enklare plan- och bygglag'*). This include some changes that were proposed in the Committee report. The bill regulates that the economic dimension in sustainable development gets a more clear manifest in the planning and building process. The bill regulates that all decisions about planning and building according to the law has to consider the risk of flooding and erosion. There is a new rule that makes it clear of that the Municipal Comprehensive physical plan can be changed through deeper studies and thematic additional studies. A new rule is introduced to make it possibility for the Municipality to regulate special demands for removing contamination in a detailed plan. The bill introduce a possibility to build a 15 square meters garden shed without a building permit. There is also a change in the rules of time-limited-building-permits for seasonal purposes. Some changes is due to EU directives and is concerned with whom has the possibility to appeal against planning decisions. The bill also makes a modernization of the language in the Act.

2.2.2 Two more committees

The Government has been appointing two more committees. One is looking at the changes in the Planning and Building Act and the Environmental Code. It is called "The committee of Environmental Processes" with additional directive (*"Miljöprocessutredningen med – tilläggsdirektiv"*). The committee will look at the new Court order for appeals of decisions in cases according to the Environmental Code and cases according to the Planning- and building Act. This committee has a lot of other questions to consider. A big issue is to look at the regulation to simplify the possibilities to locate wind power plants. The committee will give their final report on December 31st 2008.

The other committee appointed by the Government is called "The committee of Building Processes" (*"Byggprocessutredningen"*). It is looking at the building regulation to make the regulation more clear and the efficiency of the process. The committee will give their final report on May 31st 2008. The main task for the Committee is to simplify the planning process and e.g. to look at a possibility for Developers to get a development plan on their own

initiative. The committee will consider a more efficient control and supervision according to the Building legislation. Another issue is the introduction of different rules for control according to the Developers competence. The committee will also look at the issue of regulations when moving existing houses, e.g. due to the mining in the north of Sweden.

2.2.3 Commissions to Governmental bodies

The Government has also taken other measures such as commissions to Governmental bodies such as Public Authorities. One commission is given to The National Board of Housing, Building and Planning (*Boverket*) and The National Land Survey (*Lantmäteriverket*). They will look at the use of the so called Developers rules in the Planning- and Building Act. The commission includes a survey of the practice in using the rules in connection with detailed planning and the implementation of plans. The purpose with the commission is to get a basis for guidance of how to deal with development agreement within the physical planning to make better possibilities for a harmonized use of the rules. The commission will report on December 31st 2008.

A second commission is about the question of responsibility of common spaces such as roads and green areas etc in detailed development plans. The National Land Survey (*Lantmäteriverket*) and The National Board of Housing, Building and Planning (*Boverket*) will look at the issue of how it can be regulated in different ways. Earlier proposals from the committee 2005 will be taken in to consideration. The commission will report on December 31st 2008.

A third commission is about the question of adaption to climate change. The National Board of Housing, Building and Planning (*Boverket*) will together with the other responsible authorities develop methods and give examples of how planning and building may be adapted to prevent, avoid and minimize the negative effects of the climate changes. One issue is to show ways for cooperation between Municipalities in physical planning and implementation questions e.g. when taking flooding and erosion etc. into consideration. The question of coordination of different regulations should be observed. The commission reports on June 1st 2009.

2.2.4 Improving the application of the legislation

The Government has taken more actions to improve the application of the planning- and building legislation. According to that one commission is given to The National Board of Housing, Building and Planning (*Boverket*) together with the Counties (*Länsstyrelserna*). They will concentrate on improving the knowledge of the Planning- and Building legislation and its application. This work concerns Counties and other Governmental authorities. The next step in improving the application of the legislation is to work with the Municipalities in their role as local Authorities.

Another commission, already reported, is about a better governmental knowledge of the application of the Planning and Building Act. The suggestions in that report will be an issue

of new legislation and is planned to 2009. It is suggested that the question of responsibility of the supervision of the application of the Planning and Building legislation is clarified.

2.2.5 Planned Bills

The Government are planning further bills in the near future. A bill for new regulations of the protection of the shore areas are planned during 2008, There are bills planned concerning e.g. the question of Environmental Quality Standards, concerning the issue of climate changes, concerning the question of research and concerning the use of the sea. One larger bill is planned in 2009 concerning the changes in the Planning- and building Act. It will consider all the suggestions in the Committee reports and the result of the commissions from the governmental bodies.

3. CONCLUSIONS

The Swedish Government has announced that they are planning to make the changes in steps and that the government will introduce several bills making changes in the Planning and Building Act. Two such bills has already been introduced. The Governmental authorities are getting commissions to investigate certain issues and improving the knowledge. The paper has shown that there are a lot of different actions to be taken to make changes in how the Swedish Planning and Building legislation function and are applied in the development process.

REFERENCES

The Swedish Planning and Building Act, (SFS 1987:10)
SOU 2005:77, Får jag lov? Om planering och byggande

BIOGRAPHICAL NOTES

Academic experience: PhD in Real Estate Planning from the Royal Institute of Technology, Stockholm, Sweden, MSc in Surveying from the Royal Institute of Technology, Stockholm, Sweden.

Current position: Swedish Ministry of the Environment, Head of office 2006- . Currently involved in the Changes of the Swedish Building- and Planning Act.

Research: Real Estate Development Agreements, Lecturer at Royal Institute of Technology etc.

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