

A modern PBL

A new planning and building act (Sw. plan- och bygglag) ("new PBL") becomes effective on 2 May this year and replaces the current planning and building act from 1987 ("old PBL"). The following article briefly highlights some of the more central changes.

New structure

The new PBL has been restructured to make it simpler. A number of definitions have been introduced, which clarify the meaning of such terms as building, rebuilding, extension and change to building. The rules concerning technical norm requirements, which are now regulated by the 1994:847 Act are brought within the scope of the new PBL. Certain provisions have also been moved from the PBL to the ordinances.

General and individual interests

In the second chapter of the new PBL, the provisions which aim to account for the general and individual interests and requirements relevant to application of the act have been brought together. In the old PBL the general interest provisions were contained in chapter 2 and certain individual interests in chapter 3. Additionally, some of the interests have been clarified in the new act – amongst these are the consideration of regional circumstances and consideration of accessibility for disabled people.

An express requirement that consideration be given to environmental and climatic factors in the planning and hearing of matters has also been introduced, as has consideration of electronic communication such as broadband connection.

Zoning

The new PBL makes clear that zoning is intended to regulate both land and water areas. New coordinated construction is only to be regulated by zoning plans if necessary with respect to the extent of the construction subject to planning permission. The new PBL will also make it possible to have different principals for different public places under one and the same zoning plan. According to the bill, the main rule should, however, continue to be that the municipality is to be principal for public places, unless there is specific reason for another principal.

The concept of property plan is removed. The municipality will instead get to decide on the division of a property etc. in the zoning plan. As a result of this, the new PBL introduces a possibility of changing the zoning plan's division of property even during the current execution period.

The new acts also introduces the possibility of deciding in the zoning plan that planning permission may not be granted for measures which involve material change to the use of the land before a certain building has been moved or the suitability of the land for construction has been secured.

Planning notification

The new PBL involves a possibility for the individual to receive from the municipality a planning notification. A planning notification means that the person who intends to undertake a measure which can be presumed to be conditional upon the approval, amendment or annulment of a zoning plan can require the municipality, by way of a planning notification, to decide whether it intends to commence work on planning. The planning notification must be given within four months. If the municipality does not intend to commence work on planning, it must give its reasons for this. The planning notification is not, however, binding upon the municipality and no sanctions are in place if the duty to provide a planning notification is not followed.

Permits

Those measures which are subject to building, demolition and land permits under the current statute continue to be so under the new PBL. Today's system sometimes requires both a building notification as well as a building permit. The requirement for building notification has now been dropped with the aim of simplifying matters. Some measures, which are not subject to planning permission, will continue, however, to be subject to a duty to notify. Those measures which are subject to the duty to notify are regulated in the ordinances. Similarly, rules on permit requirements for sites other than buildings are also moved to the ordinances. (According to information from the government, the new planning and building ordinances will be made public at the end of March 2011.) Today there is no express provision which compels the planning authorities to reach a decision within a certain time. The new PBL introduces a time limit of ten weeks for notification of planning permission. However, there are no sanctions for municipalities which do not meet the time limit.

Final planning permission

Another change ushered in by the new PBL is that a decision on planning permission will become final more easily. This is to avoid, as far as possible, the problems which can arise when planning permission can be appealed long after the construction process has started. A prerequisite for the decision to become final is that the planning authorities must have served notice of the planning decision to all interested parties. If this has not taken place, the right to appeal against a decision remains for those interested parties. In terms of unknown parties, the new PBL provides that these can be served notice by publication in the Official Swedish Gazette (Sw. Post- och Inrikes Tidningar). A known, interested party is not deemed to have been served notice by way of such publication.

Control and supervision

In the matter of supervision and execution of a building or demolition project, the new Act contains some interesting news. The contractor continues to be responsible for ensuring that any measures meet legal requirements but the obligations are made more precise in the new PBL. Similarly, the provisions on what a control plan is to contain has been clarified and made somewhat more extensive.

The Quality Officer has been dropped from the new PBL and replaced by a Control Officer. The Control Officer gets a broader remit, increased independence and a

stronger position in the construction project compared with the Quality Officer. If there is no Control Officer then neither are the prerequisites for the planning authorities to grant a start clearance in place. Without a start clearance, any building or demolition work, subject to planning notification, cannot go ahead. The Control Officer must be certified in accordance with the EU services directive. Simpler measures taken in respect of single or two-family dwellings do not require a Control Officer. The Planning Committee (Sw. Byggsamråd) changes name to Technical Committee (Sw. Tekniskt samråd). The rules concerning the committee are strengthened somewhat and the provisions on what is to be reviewed are made clearer.

Furthermore, the planning authorities must make a site visit at least once during the project. At the visit, the authority's administrative officer must check, amongst other things, that the control plan and planning permission are being followed and that the Control Officer is present to the extent prescribed. When the project is complete, the planning authority must hold a final coordination meeting on site. If everything is in order, the planning authority must promptly issue a final notification wherein it is approved that the project is deemed to be complete. It is important to underline that a building may not be taken into use until the final notification has been provided.

Transitional provisions

The current act will be applied to cases and matters which commence from and including 2 May 2011. For contravention before 2 May 2001, the older provisions are to be applied in a hearing of the matter. The provisions in the new act will, however, be applied if they give rise to a more lenient remedy. Several transitional provisions are also in place to regulate, for example, the relationship to older plans.

Conclusion

The purpose of the new PBL is, above all, to simplify the planning and decision processes and to increase predictability for individuals and companies. The older act's fundamental objective, i.e. municipal independence and municipal responsibility for planning, remains unchanged. The new rules on, amongst other things, planning decisions within ten weeks, greater opportunities for a decision to become final, consideration of the environment and climate and a generally better control of the building process create the right conditions for a more effective and more uniform application of the law across the country. This also imposes greater demands on a municipality's handling and supervision of the planning process. For this reason, a special training and information investment has been made regarding the new PBL for municipalities, county councils and other national authorities. Similarly, fairly extensive training and certification of Control Officers will be required to meet the forthcoming demand and legal requirements. Hopefully, these measures will fulfill their purpose and provide us with a modern act suited to contemporary society.



Stefan Olsson, Partner



Ulrica Dahlberg, Associate