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COMPOSITIONAL, HISTORICAL AND LEGAL VALUES ON THE EXAMPLE OF THE PARK IN BARANOWO, TARNOWO PODGÓRNE MUNICIPALITY IN POLAND

The aim of the following article is to draw attention to the issue of starting a discussion on parks, accompanying farm and manor complexes, entered into the register of monuments in the early 1990s. From the point of view of the modern day, it is important to conduct a critical analysis of whether the boundaries of historical spatial assumptions proposed at that time are still a source of protection of the cultural landscape of Greater Poland from a conservation and legal point of view. As a case study, the historic park in Baranowo, Tarnowo Podgórne municipality, was analyzed from the authors' professional activities.

Keywords: historic park, heritage protection, legislation, cultural landscape

1. INTRODUCTION

The purpose of this study is to draw attention to the issue of urgent adjustment of the boundaries of the historic landscape park located in the vicinity of the manor house in Baranowo (Tarnowo Podgórne Municipality). Due to the time that has passed since the manor and park were entered into the register of monuments, i.e. the beginning of the 1990s, the actual shape of the park surrounding the manor building should be revised, referring to the currently available historical materials [Fig. 1-2]. From the point of view of historical research, it is also justified to draw attention to the fact of changes in the space around the farm complex, the manor

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house and the park itself. In this case, it is also necessary to mention the planning activities [Kozień 2020: 7-17] in the Tarnowo Podgórne municipality in the form of adopting subsequent local spatial development plans in the vicinity¹. The development of the urbanized areas around the park, in accordance with the planning documents, is aimed at preserving the historical spatial layout and developing low-intensity residential buildings.



Fig. 1. The first version of the border of the historic park in Baranowo. Source: Annex No. 1 to the decision to enter the cultural property into the register of monuments, letter number, KS III-5340 /13/90, of August 30, 1990

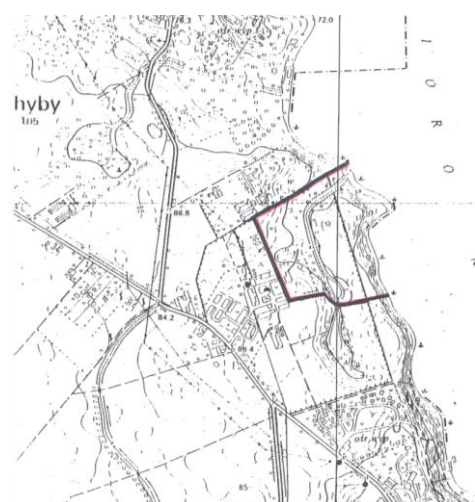


Fig. 2. The second version of the border of the historic park in Baranowo. Source: Annex No. 2 to the decision to enter the cultural property into the register of monuments, letter number, KS III-5340 /13/90, of August 30, 1990

The formation and creation of new spatial frameworks for a site entered into the register of monuments is a continuous process from the point of view of the recent past. If we compare the conditions and factors that influenced the designation of the protected area over 20 years ago, they are definitely different than today. It is also worth mentioning the graphic ambiguity of the boundaries of the protected area appearing in various official documents. Also, the progressive digitalization of the planning process allows for detailed designation of boundaries and spaces that, from the point of view of historical conditions and the definition of cultural land-

¹ Local Spatial Development Plan for detached house residential areas in the village of Bananowo, plot 10/30 part, Resolution No. XXIV / 152 / 2003, of the Municipality Council, Tarnowo Podgórne, of December 16, 2003. Official Journal of the Greater Poland Voivodeship No. 22, item 628.

scape [Marcinek et al. 2021: 7-19], should be subject to actual protection. The above-mentioned spatial assumptions, together with the manor building, fit into the concept and definition of the issue of cultural landscape that should be protected, in realistic frames and ridges.

2. THE CONCEPT OF DEVELOPMENT OF THE MANOR AND FARM BUILDINGS IN THE 19TH AND EARLY 20TH CENTURIES IN GREATER POLAND

It should be recalled that the formation of spatial assumptions, in which the main components were farm buildings and a manor house with a park or garden, date back to the first half of the 19th century. In the case of Greater Poland, this process was related to geopolitical changes and thus the strong influence of agrarian culture related to Prussian legislation after the annexation of these areas to Prussia following the second partition of Poland in 1793.

The shaping of both urban planning and agricultural landscape in Greater Poland in the first half of the 19th century was dictated by, among others, the application of Prussian enfranchisement laws [Niewierowicz 2019: 73-76] after 1823², and the introduction of Prussian construction law in the Province of Poznań in 1846. At the same time, an important body influencing construction and land development was the Colonization Commission, which from 1886 [A brief outline of the administration in the former Prussian partition, Poznań 1919] was responsible for supporting the German population in settling in Greater Poland. It should be mentioned that the estate in Baranowo, at the time of its establishment, belonged to German owners, those were among others, from 1868 Robert Schlundt, and then from 1891, Heinrich Beck and others³. After the First World War, it became the property of the Polish State Treasury.

The creation of a close connection between the manor and the park was also influenced by the changes that accompanied the development of a new concept of agriculture in Greater Poland, based on crop rotation and the concept of multi-field farms [Kodym-Kozaczko 2006: 219-229]. Issues of a new approach were also an important factor to use the landscape as an element not only of nature, but also as a new form of beautifying farm premises. These activities included, among others: by adding new plantings, attempts were also made to use the existing trees. Particular

² In 1807, the Prussian authorities abolished personal serfdom. On June 7, 1821, they issued an edict under which peasants were allowed relief – the ability to redeem themselves from feudal benefits.

³ Information based on Record documentation of the Baranowo manor park, Municipality of Tarnowo Podgórne. No. 7598.

attention was paid to the topography of the area and attempts were made to emphasize its landscape values. This tactic was most likely used in the case of the establishment in Baranowo, creating some kind of landscape park [Pudelska et al., 2013: 53-60].



Fig. 3. Fragment of a map of Greater Poland from 1877, visible spatial layout of the manor and farm complex in Baranowo. The main elements of the development are marked: such as the farm, the manor house and the garden/park [Prepared by authors]

It should be mentioned that the manor with a park in Baranowo is a part of a manor and farm complex that was most likely to develop [Libicki 2013: 15] starting from the second half of the 19th century. The 1870s in Greater Poland was a period of development of a characteristic urban layout [Fig. 3], where the key element of the spatial composition is the farm yard with a characteristic rectangular layout, around which the buildings are located. The formation of the spatial layout in this form was dictated by, among others, microclimatic conditions, wind direction and fire protection. Typically, a residential building or manor house was located in the southern side of the yard [Kodym-Kozaczko 2006: 219-229].

In the case of manor and farm buildings of this period, an important element was greenery, which was formed in relation to the principles of landscape composition in order to beautify the landscape, in which naturalness and connection with the existing nature were very important. It was primarily about improving the already existing landscape.

3. DEVELOPMENT OF THE URBAN LAYOUT OF THE PARK IN BARANOWO BASED ON THE ANALYSIS OF HISTORICAL GERMAN MAPS FROM THE 19TH AND EARLY 20TH CENTURIES

In the case of this study, it was proposed to use several period maps, available in digital form on dedicated portals, publications of historical European maps, and an aerial photo from the Second World War. The selection of research materials was dictated by the authors' will to show a wide spectrum of changes that took place within the spatial layout of the Baranowo estate, with particular emphasis on the manor park. Another important element is the graphic presentation of the area called the park and its connection with the farm complex and the manor house. The following maps were suggested for detailed analysis:

- 1802-1803, Special Karte von Südproussen, B I, In der königlichen akademischen Landkarten Handlung der Kaufleute Simon Schropp u. Comp., Berlin, 1802-1803", II. 4,
- 1911, Sady, Königlich-Preussische Landesaufnahme, 1:25 000, II. 5,
- 1936, Sady, Topographische Karte 1:25 000 (Meßtischblatt), Ostdeutschland II. 6,
- 1939-1944, *Bildplan / Bildskizze 1:25 000 TK25*, II. 7.



Fig. 4. Fragment of a German map from 1802-1803, showing the future park area and manors in Baranowo. The location of the foundation is marked in blue [Prepared by authors]

On the map from 1802-1803, in the original scale of 1:150,000, only the development of the Baranowo estate area is visible in the form of green areas accompanied by the inscription “Baranowo”. Due to the large scale of the map, it is not possible to recreate the original layout of the site. It should also be mentioned that the urban layout in question was not visible in the source the map comes from [Fig. 4].



Fig. 5. Fragment of a German map from 1911, Sady, Königlich-Preussische Landesaufnahme, 1911, scale 1:25,000 [Prepared by authors]



Fig. 6. A fragment of a German map from 1936, Sady, Topographische Karte 1:25,000 (Meßtischblatt) east part (Ostdeutschland), 1936, based on a map from 1911 [Prepared by authors]

On a map from 1911 at a scale of 1:25,000 [Fig. 5], as well as on maps from subsequent years, 1936 [Fig. 6] and 1939-1944 [Fig. 7] at the same scale, the layout of the urban estate in Baranowo is visible. It consisted of a farm yard, farm buildings, a manor house, and an area of developed park greenery. In this case, attention should be paid to two characteristic graphic markings in the form of hatched rectangles, one on the western side of the manor (yard) and the other on the eastern side – the park [Fig. 5-6].

Taking into account the descriptions and legends for maps from this period, it should be stated that in this graphic way the areas and developed areas accompanying residential buildings were marked in a broad sense. The form of development could be very different, ranging from lawns, flowerbeds, single trees, and ending with a garden. The most complete image of the site, along with the accompanying greenery, is presented in an aerial photograph from the period of World War II [Fig. 7].



Fig. 7. Fragment of a German aerial photomap from 1939-1944, Bildplan / Bildskizze 1:25,000 TK25 /1939-1944/ [Prepared by authors]

4. THE PARK IN BARANOWO STYLE FEATURES

In the case of the park in Baranowo, it should be considered from the point of view of a small garden surrounding a small manor house, surrounded by farm buildings. Currently, all of the above-mentioned elements are in very poor tech-

nical condition. Farm buildings are falling into ruin [Fig. 8], the manor house has not been used for many years [Fig. 9] and the park is overgrowing, while monumental tree species located in the immediate vicinity of the manor building are slowly dying.

Referring to the concept of the park, based on studies of maps from the second half of the 19th century and the first half of the 20th century, it can be concluded that this assumption was created as a result of the use of the natural landscape in the area where the manor and farm complex was located. This was a very common practice accompanying the concept of a landscape park implemented in the second half of the 19th century. One may observe an interesting landform and location in the vicinity of three ponds. Two of them are visible on the map from 1911 presented in the study [Fig. 5]. The third pond can be assumed to have been created as a result of damming a watercourse flowing through the area in the first half of the 20th century. It should be mentioned that the third pond is visible only on the map from 1936 [Fig. 6] and in an aerial photo [Fig. 7] from the period of World War II (first half of the 1940s).

In the case of the analyzed assumption, we cannot talk about a conscious or planned design of the park. Its spatial expression was more of a result of using it in a utilitarian way, as an important element from the point of view of the composition of the entire layout, using the existing condition. No traces of design activities have been preserved.



Fig. 8. View of a neglected and falling into ruin farm complex in Baranowo, view from the inner courtyard and manor house. November, 2022 [Photo prepared by authors]



Fig. 9. View of a neglected manor house and park in Baranowo, November 2022
[Photo prepared by authors]

On the map from 1936 [Fig. 6], the characteristic layout of the park is visible. The lines in the form of transverse stripes on the above-mentioned map indicate the space surrounding the buildings, which has been developed for greenery and other purposes. In this way, areas that were in some way invested or changed by human hands were marked. A similar way of showing development is also visible on Polish maps from the following years, which out of necessity, were based on earlier maps from the interwar period. In this case, we can talk about a certain cartographic and planning continuity.

5. PROPOSED ADJUSTMENT OF THE BOUNDARIES OF THE HISTORIC PARK IN BARANOWO

As the presented analyses of historical materials have shown, the shape of the park established in the documents (entry in the register) differs from its historical form as an important component of the manor and farm estate in Baranowo. To

confirm these considerations, the following facts should be mentioned. The above-mentioned map from 1911 [Fig. 5] shows a clear layout of the manor and farm complex with a park, the main compositional axis of which was shaped along three ponds, fed by local streams – the north-south axis. On the western side, there is an orchard attached to the farm buildings. The topography of the area has not changed, so it can be assumed that the historical park, as mentioned many times, was created using the natural landscape and the already existing greenery. The mentioned hatching of the space, visible on the map, clearly indicates spatial activities aimed at developing the park towards the north [Fig. 10].



Fig. 10. The spatial layout of the manor and farm complex with a park on the map from 1911. The following elements are marked in Arabic numerals: No. 1 the manor house, No. 2 a pond created as a result of damming, No. 3 natural pond, No. 4 second natural pond, No. 5 farmland, No. 6 court [Prepared by authors]

In an aerial photograph from the period of World War II, the first half of the 1940s, [Fig. 11], the analyzed spatial layout of the manor and farm in Baranowo is very clear. Just like on the map from 1911, the main compositional elements of the layout are still visible and legible. Thanks to photography, it is possible to compare a map from the beginning of the 20th century with the development that occurred

in the area at the turn of the 1930s and 1940s. As on the map from 1911, the park areas stretch on the north-south axis, along three small ponds. The scope of the park with the ponds is visible and legible, which allows for a clear proposal of the boundaries, the park system, which should be preserved as an element of the cultural landscape and an inherent element of the urban layout of the historic manor house in Baranowo.

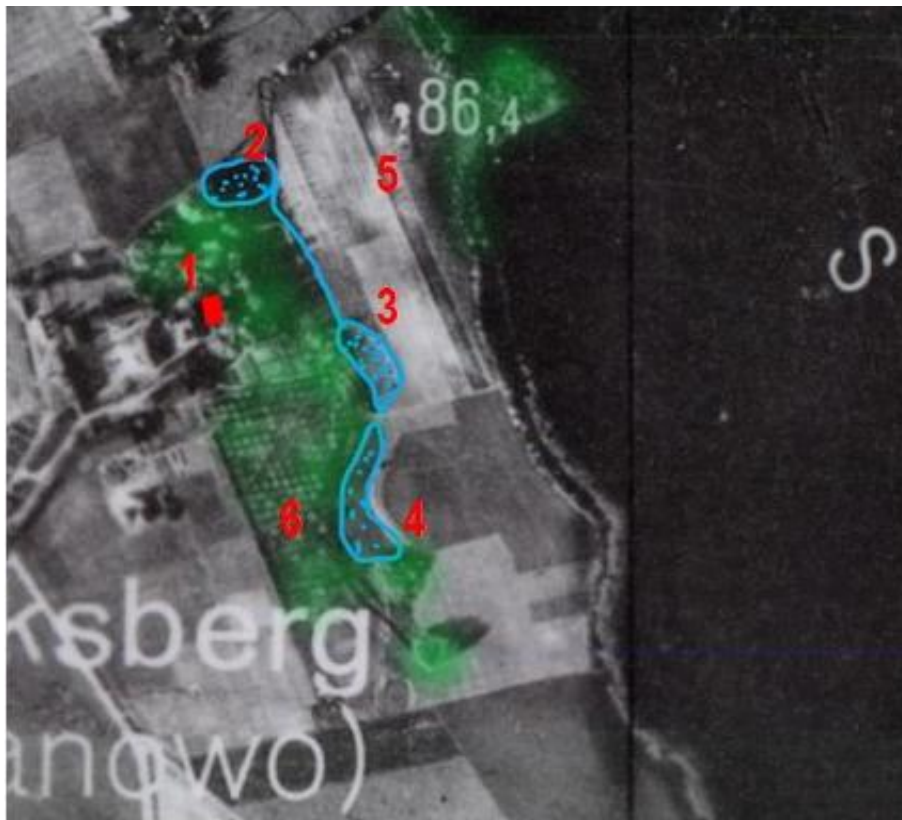


Fig. 11. The spatial layout of the manor and farm complex with a park presented on an aerial map from the period of World War II. The following elements are marked with Arabic numerals: No. 1 the manor, No. 2 a pond created as a result of damming, No. 3 a natural pond, No. 4 second natural pond, No. 5 farmlands, no. 6 orchard [Prepared by authors]

The considerations presented in this part of the work can be compared with the contemporary situation visible in [Fig. 12]. Despite the ongoing degradation of the entire spatial system including the park, the urban values and historical assumptions are still visible and clearly defined, despite the forms of use being different from the original intention.



Fig. 12. The spatial layout of the manor and farm complex with a park on Google maps. The following elements are marked in Arabic numerals: No. 1 the manor, No. 2 a pond created as a result of damming, No. 3 a natural pond, No. 4 second natural pond, No. 5 farmlands, No. 6 an orchard [Prepared by authors]

6. SUMMARY, ADJUSTMENT OF THE BOUNDARIES OF THE HISTORIC PARK IN BARANOWO

The correction of the boundaries of the historic park proposed in this study is a significant step towards preserving the actual cultural heritage of the estate in Baranowo. As mentioned before, it consists of a farm complex, a manor house and a park. The introduction of a new boundary will allow, unlike in the 1990s, to protect real elements, both landscape and architectural ones, of the analysed site, in terms of its historical and spatial development.



Fig. 13. The red dashed line shows the proposed new boundaries of the historical park in Baranowo, Tarnowo Podgórze Municipality. The following topographic elements are also marked in the drawing: No. 1 manor house, No. 2 pond, No. 3, first natural pond, No. 4, second natural pond, No. 5 remains of the former manor orchard. Based on a map from Geoportal [Prepared by authors]

The historical maps examined in the study allowed us to trace the development of the historical development over the course of over 150 years. The collected research material clearly shows that the main compositional axis of the park in Baranowo did not run straight, from east to west, as shown in the graphic attachments to the entry in the register [Fig. 1] and [Fig. 2]. The proposed boundaries of the historical park in the early 1990s did not take into account the shape of the cultural landscape of the manor and farm complex, which over decades had developed in the north-south direction. It should also be noted that the current borders drastically cut through the preserved elements of the cultural landscape, dividing them into those that are worth preserving and those that are considered to constitute the

above-mentioned elements as a compositional whole but do not belong to the protected area.

If the entire analyzed development were considered as an important element of cultural heritage, the farm complex itself should also be protected, as it is rapidly being devastated due to the lack of protection within the working of the Act. The proposed new shape of the boundary of the historic park in Baranowo is presented in [Fig. 13].

7. LEGAL CONDITIONS FOR ADJUSTING THE BOUNDARIES OF THE HISTORIC PARK IN BARANOWO

Taking into account the substantive arrangements regarding ensuring protection of truly historic areas, it is necessary to submit an application to change the administrative decision regarding the entry of the area into the register of monuments. This concerns an amendment to the decision of the Provincial Conservator of Monuments of August 30, 1990 on entering a cultural property into the register of monuments – a manor house with park surroundings in Baranowo, municipality of Tarnowo Podgórne, registry number 2194/A, case number KS.III-5340/13/90. The change should implement the correction of the boundaries of the historic park in accordance with what was shown in the study [Fig. 14].

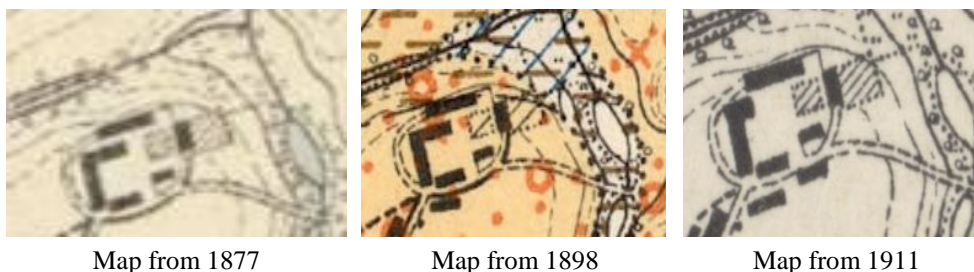


Fig. 14. Comparison of maps from three different periods 1877, 1898 and 1911, with a cross bar marked, land planned and decorated, accompanying the construction [Prepared by authors]

The legal basis would be Art. 13 section 1 and 2 of the Act of July 23, 2003 on the protection and care of monuments (consolidated text: Journal of Laws of 2022, item 840, as amended). The provision contained in section 1 stipulates that a monument entered in the register which has been destroyed to such an extent that it loses its historical, artistic or scientific value, which was the basis for the decision to enter it in the register, has not been confirmed by new scientific findings, shall be deleted from the register. In relation to the study in question, the last of the sub-

stantive premises contained in the provision is adequate. The scientific study confirms the need to modify the boundaries of the protected area. In turn, Art. 13 section 2 of the above-mentioned Act shows that this provision can be applied in a situation where a judgment is necessary regarding a part of the real estate, i.e. as in the above described case. Monuments are subject to conservation protection regardless of their state of preservation, which results from Art. 6 section 1 of the above-mentioned Act. According to the same provision, immovable monuments include, among others: works of architecture and construction, as well as parks and forms of designed greenery.

In turn, Art. 3 points 1 and 2 of the above-mentioned Act states that an immovable monument may be a property creation of which can be considered human work and preservation of which is in the public interest due to its historical, artistic or scientific value. For this reason, the part of the park that has not yet been subject to conservation protection should be subjected to it. Changing the boundaries of the park would ensure the necessary protection for the historic part of the property and at the same time eliminate unnecessary administrative barriers limiting the owner of the property in developing the part of it that does not have historic values.

The Minister of Culture and National Heritage is responsible for the matter and any application in this matter should be addressed to him. The provision of Art. 13 section 5 of the above-mentioned Act states that deletion from the register takes place on the basis of a decision of the Minister responsible for culture and protection of national heritage. The case of modifying the boundaries of the protected area may be appropriately included in the scope of this regulation. Since the Minister can decide on deletion, he has even more competence to change the area, because an element of such a decision will be the partial deletion of conservation protection for the area excluded from the decision. By requiring the application to be submitted to the Minister, the provision raises the profile of the decision-making body. In the standard case, entry of a monument into the register is made pursuant to Art. 9 section 1 of the Act through the decision of the provincial art conservator. Therefore, the legislator decided that the decision on deletion should be made by a higher-level body within the meaning of the provisions of the Code of Administrative Procedure. This can be interpreted as an increase in the protection level of the monument. It is also worth noting that, according to Art. 13 section 6 of the above-mentioned Act, the proceedings may be conducted on the basis of the request of the property owner and *ex officio*.

It is worth asking what ruling the Minister should issue. In this matter, it should start with the observation that entry into the register of monuments and its change are made by issuing an administrative decision. By the will of the legislator, the procedure of jurisdictional administrative proceedings will be applied. Therefore, the authority should first independently verify the accuracy of the expert opinion's findings. Its operation will be based on the basic principles regarding the clarification of the facts of the case. What should be mentioned here is the principle of objective law, which states that the authority is supposed to determine the actual state of affairs.

As stipulated in Art. 7 CAP the authorities safeguard the rule of law, *ex officio* or at the request of the parties, take all actions necessary to precisely clarify the facts and settle the matter, taking into account the public interest and the legitimate interest of citizens. Another principle embedded in this provision is the principle of officialdom, which means that the authority is obliged to clarify the state of affairs itself, including taking action *ex officio*. The authority is to strive to establish the truth, which in this case means clarifying whether and which part of the property should be subject to conservation protection. The matter, in turn, should be resolved by the authority taking into account the public interest. In the circumstances of this case, this would mean the need to protect the truly historic area and to remove this protection from the non-historic area. This removal of protection would also correspond to the interest of the owner, because, as already indicated, it removes restrictions on the exercise of real estate ownership rights. In this aspect, the decision corresponds to the premise of the authority acting in the interests of the citizen's legitimate interest.

Another issue is the possibility of changing the administrative decision, which is final. According to Art. 16 CAP the principle of durability of final administrative decisions applies here. This principle is a manifestation of the protection of acquired rights, the need to stabilize legal relations, as well as the implementation of the principle of "*res judicata*" – matters once resolved cannot be re-resolved with another decision. Such a decision would be invalid, as indicated in Art. 156 §1 point 3 of the Code of Administrative Procedure. This provision states that a decision that "concerns a matter previously resolved by another final decision" is invalid. In this context, it should be noted that Art. 16 CAP allows for a change to the final administrative decision if a specific legal provision provides for it. This provision must be recognized as the above-mentioned standards included in the Act on the Protection and Care of Monuments. However, the Code imposes even further requirements, namely in accordance with Art. 155 of the Code of Administrative Procedure "The final decision under which a party acquired a right may be repealed or amended at any time with the consent of the party, by the public administration body that issued it, if specific provisions do not oppose the repeal or amendment of such a decision and there is a social or legitimate interest in doing so". The party, i.e. in this case the owner of the property, must agree to change the decision. The question arises whether Art. 154 § 1 of the Code of Administrative Procedure should not be applied in this case, stipulating that "A final decision under which neither party has acquired a right may be repealed or amended at any time by the public administration body that issued it if the public interest or the legitimate interest of the party require so". It is necessary to take a stand as to whether the decision to enter it into the register of monuments is a decision under which a party acquires a right? An outstanding expert on the subject, prof. Janusz Borkowski distinguished three cases of acquiring a right from a decision: 1) acquired rights, the content of which is authorization for the authorized entity to take action, 2) acquired rights, the content of which is a statement that a given entity is not subject to a specific obligation, 3) acquired

rights based on the right to demand benefits from other entities or the state [Borkowski 1967: 16].

The entry in the register of monuments does not cover any of the above-mentioned three cases. However, the literature also points to another one, i.e. determining the maximum size of the party's obligation. The doctrine revealed a dispute regarding this case. Professors Starościak, Bar and Borkowski consider it a case of acquired rights. Marian Zimmermann, years ago the head of the department of administrative law at Adam Mickiewicz University in Poznań, claimed that rights cannot be acquired from negative decisions and decisions imposing obligations [Zimmermann 1958: 116]. This view is accurate in relation to the entry in the register of monuments. As indicated, this decision constitutes the basis for limiting the scope of the right to exercise ownership of real estate. Although, as explained by prof. Borkowski, establishing an obligation means at the same time determining the degree or extent of the responsibility of the party, but he adds that this is the case when the obligation is measurable [Borkowski 1967: 18].

Therefore, it can be assumed that in the case of a decision that does not specify the scope of the obligation but only covers the ownership of real estate with the restrictions specified in the Act, the party does not acquire the right. This finding means that the decision should also be changed on the basis of Art. 154 of the Code of Administrative Procedure, however, the Minister does not have to obtain the consent of the party - the owner of the property and possibly other parties.

The question then arises about the Minister's obligation to deal with the matter and change the decision if the results of the expert opinion are found to be correct. As indicated, the decision to enter a property into the register of monuments is made based on statutory criteria. The body's actions should be guided by the principle of the rule of law. Therefore, when it determines that the entry should be changed due to these conditions, the rule of law requires it to take action and change the decision. The change in these circumstances meets the requirements of the axiology of administrative law, including such a fundamental value as truth [Zimmermann 2013: 84]. It is worth noting that due to these premises, the decision is made according to the formula of legal syllogism. The syllogistic concept of law application comes from legal positivism [Wronkowska 2001: 52]. Legal syllogism is a model of the application of law, which is constructed in such a way that there are two types of premises, i.e. factual and legal, and a conclusion resulting from the subsumption of these premises. The legal premise is a general and abstract norm, properly interpreted, the actual premise is the factual finding with which legal consequences are to be associated, and the conclusion is a decision in the form of an individual, specific norm [Wronkowska 2001: 52]. "The essential elements of a legal norm include a hypothesis that contains a description of a certain situation justifying its application – a certain abstract factual state and a disposition that determines the legal consequence. In order for a legal consequence specified in the norm of substantive law to arise, the situation described in the norm hypothesis must actually occur. A public administration body, applying a legal provision, will

have to determine whether both factual states, i.e. the factual state of the case and the abstract state, coincide” [Adamiak, Borkowski 2006: 390].

In this context, it can be noted that the decision to enter a property into the register of monuments is in fact a material act. This is a specific type of administrative acts, because most often the rights and obligations arising from an administrative decision are of a personal nature; they are permanently related to the addressee, i.e. the entity for which the decision was issued [Kasznica 1947: 135]. The exception will be material acts and acts that Professor Matan called personal and material acts [Matan 2008: 111]. The latter, i.e. personal and material ones, are in fact personal in nature, so they are related to the addressee, but they also concern things, most often real estate. They are issued when the addressee applies, for example, for consent to take action on a specific property. An example of such decisions may be a building permit or a water permit [Matan 2008: 114]. Unlike physical acts, the transfer of rights from this type of decision most often requires the issuance of a separate decision transferring these rights. Meanwhile, a substantive administrative act is intended to determine the legal status of a specific thing. This status is granted independently of the person to whom a given act is addressed, and may concern, for example, the recognition of an object as historic [Matan 2008: 113]. The addressee is determined for two reasons: firstly, because the act is issued in the form of an administrative decision, and the administrative decision, as it is currently structured in the Code of Administrative Procedure must specify the addressee. The second reason behind that is the issuance of a material administrative act is most often associated with limiting the scope of real estate ownership rights and the owner is the addressee of this act. Issuing a decision against the property owner gives him the opportunity to defend his legal interest. Grzegorz Łaszczyca and Andrzej Mata also correctly draw attention to the qualities of property deeds, which are important when deciding on the entry of a real estate into the register of monuments. They mention the fact that the status of a monument will affect not only the owner of the property, but also everyone who comes into contact with this thing. Further features include the fact that a historic object has individualizing features assigned only to it and that they are independent of the will of the owner – the disposer of the thing [Matan 114].

The decision to enter an entity into the register of monuments shapes the scope of rights of the owner of a given property. Therefore, it is an act that produces effects in the area of civil law [Banaszczyk 2007: 905-906]. The entry of real estate into the register of monuments determines the scope of ownership rights. An administrative decision specifying the statutory conditions for granting conservation protection in relation to a given property falls within the scope of the provisions of Art. 140 of the Civil Code, which states that "Within the limits set by statute and the principles of social coexistence, the owner may, to the exclusion of other persons, use the thing in accordance with the socio-economic purpose of his right, in particular he may collect profits and other income from the thing. He may dispose of the thing within the same limits".

Therefore, entry into the register of monuments is a material act, and not a personal and material act. It determines the status of a given property. This status does not change if the owner of the property changes. The new owner takes over the legal situation without changing the decision. Therefore, this decision is an example of a general administrative act [Szewczyk E., Szewczyk M. 2014: 51] M. and E. Szewczyk rightly point out that these are acts granting the status of a specific thing with the peculiarity that at the time of issuing a given act it is possible to individually determine their addressee. However, this addressee can change without the need to change the decision. Therefore, in the case of a general administrative act, such as the decision to enter real estate in the register of monuments, there is no problem of succession of administrative and legal rights and obligations. Since the act that is their source is of a general nature, its addressee is defined according to the formula "everyone who" [Szewczyk E., Szewczyk M. 2014: 51] which means every owner of the property and everyone who will use the property in any way is bound by this act by operation of law. "Such a decision states that a given property has the status of a monument, i.e. a public law status that has the power to influence the status of anyone who comes into legally relevant contact with such a monument".

The conclusion is that the decision to enter a monument in the register of monuments is not a decision referred to in the Code of Administrative Procedure, although there are no obstacles for it being issued under the Code of Administrative Procedure, due to the objective possibility of conducting proceedings in this matter. with the active participation of all entities having the status of parties within the meaning of Art. 28 CAP in such matters [Szewczyk E., Szewczyk M. 2014: 145].

8. CONCLUSIONS

The new shape of the boundaries of the area of the historical park in Baranowo, proposed in the study takes into account the preservation of those elements of the cultural landscape, which have been still legible for over 150 years and prove the continuity of spatial activities in the area covered by the study. These include an area of old trees located on the western side of the manor, a complex of three ponds the form of which has not changed for over 100 years, and the remains of a former orchard on the southern side of the farm buildings. The above-mentioned elements should be retained, taking into account the existing investment and planning activities of the Tarnowo Podgórne municipality.

Due to limited access to source and historical materials, the park boundaries introduced in the register of monuments in the 1990s were significantly incorrect. The error consisted of qualifying agricultural areas located on the eastern side of the park as its integral part. The agricultural development of these areas is clearly

shown by a German aerial photomap from the 1940s [Fig. 7], as well as other maps from earlier years referred to in the expert opinion. As mentioned earlier, when developing the boundaries of the protected areas for the park in Baranowo in the 1990s, the remaining ponds and the remains of the former manor orchard were also omitted, not to mention the manor farm.

As research into source materials has shown, changing the boundary of the historic park in Baranowo is necessary due to the protection of the cultural landscape preserved over time in accordance with statutory provisions and definitions adopted by the legislator. The introduction of a new boundary for the park in Baranowo will allow for real and imaginary protection of its historical values, in the light of the ongoing urbanization in the municipality.

Supplementing this argument, it should be pointed out that the authors mean that the decision to enter the register of monuments does not meet the definition of an individual administrative act, i.e. of a personal nature, and for this type of acts, administrative proceedings have been established, in principle, regulated by the provisions of the Code of Administrative Procedure. However, since Polish law does not have a separate procedure under which general administrative acts would be issued (the concept of a general administrative act itself is also not defined in law), one of the “substitute” modes is the application of the provisions of the Code of Administrative Procedure. This happens when an act is taken to enter a real estate into the register of monuments.

In conclusion, both the substantive findings and legal provisions indicate the need to change the entry in the register of monuments. The areas that require it should be placed under conservation protection, and at the same time the areas that should not be protected should be excluded from this protection. Taking into account the significant interference of conservation protection with the ownership of real estate, part of which has never been part of a historic park. The boundaries of the protected area should be adjusted in accordance with the indications of historical maps, photos and documents referred to in the above-mentioned work, also for the sake of protection of property rights.

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**UWARUNKOWANIA KOMPOZYCYJNE, ZABYTKOWE ORAZ PRAWNE
NA PRZYKŁADZIE PARKU W BARANOWIE, GMINA TARNOWO PODGÓRNE
W POLSCE**

Streszczenie

Celem niniejszego tekstu jest podjęcie dyskusji nad wpisanymi do rejestru zabytków we wczesnych latach 90. XX w. parkami towarzyszącymi założeniom folwarczno-dworskim. Ważne jest obecnie dokonanie analizy krytycznej, czy zaproponowane w tamtym czasie granice historycznych założeń przestrzennych są nadal źródłem ochrony krajobrazu kulturowego Wielkopolski z punktu widzenia konserwatorskiego, jak i prawnego. Jako studium przypadku z działalności zawodowej autorów analizie poddano zabytkowy park w Baranowie, zlokalizowanym w gminie Tarnowo Podgórne.

Słowa kluczowe: zabytkowy park, ochrona dziedzictwa, ustawodawstwo, krajobraz kulturowy