

# **Policies and Compensation Measures: The Impact of Land Development on the Values of Cultural Heritage Sites in a Democratic Landscape**

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## **Abstract**

During 2013, Rio Kulturkooperativ are working with a research project about compensation measures applied to cultural heritage values in the landscape. The background is that we have seen problems with how authorities, developers and real estate managers deal with the impact of land development on landscape values. In several projects, we have tried to propose measures for compensating intervention in the landscape and on cultural heritage values.

In the US and in several European countries, compensation measures are applied within nature preservation. We want to find out if it is also possible to work with compensation measures, when it comes to intervention affecting the landscape, the heritage and cultural values. This issue has become even more relevant after the European Landscape Convention was ratified. The convention rates the democratic landscape highly, and compensation measures can be a part of building a democratic landscape.

To handle the question of compensation measures, two basic principles can be applied. Compensation claims may apply either to the entire cultural landscape, without any spatial delimitation, or only to cultural heritage defined by the government or by municipalities as valuable. Irrespective of whether the claim for compensation applies to the entire landscape or only to defined parts, four typical cases can be specified; the same action in the same place; different action in the same place; the same action in a different place; different action in a different place. All these forms are based on the replacement of lost values. The protection of cultural heritage and questions of compensation might meet with opposition among the involved parties, depending on their incentive and whether compensation is regulated through agreements or according to law.

Compensation claims commonly emerge at a late stage in the planning process. It is only when it comes to the detailed stage of the planning that this matter is considered and may then be regarded as a problem. Accordingly, it is relevant to ensure feed-back of experience to all involved parties, at the same time as a formulated praxis is established.

In the case study concerning Lilla Aspholmen, it is clear that the lack of praxis and unclear structure of responsibility leads to confusion and to a situation when nobody is sure of how the action should be arranged or carried out. Therefore, it is of greatest importance to formulate a functioning praxis for how compensation measures should be applied.

# Introduction

## Background

During 2013, Rio Kulturkooperativ has been working with the research project 'Means of Control and Compensation Measures within Cultural Heritage Management' (*Styrmedel och kompensationsåtgärder inom kulturmiljöområdet*).

The purpose of the project is to investigate how compensation measures can be applied to the field of cultural heritage and to find out which options there are of making further progress in the management of such measures in community planning. Our study starts out from current problems that we have come up against in our work within this field. These problems are based on questions concerning the sustainable landscape. In several of our own examinations of the impact of development on cultural heritage sites, we have proposed compensation measures to restore affected cultural heritage values<sup>1</sup>. Unfortunately, these have frequently been set aside when it came to the final process of decision-making.

The research project is financed by the research funding of the Swedish National Heritage Board (Research and Development), running over a period of two years, starting in January 2013. During the first year, we will make a compilation of the current state of knowledge and identify illustrative examples. Further, we will examine legislation concerning compensation measures. We will also make an analysis of concepts applied in relation to compensation measures, in order to study differences and similarities in the management of natural and cultural heritages. This study will be compiled in a report, which will provide a foundation for the more experimental phase of the work, in year two. In this second part of the project, the knowledge that was generated from the work with the case studies will be applied in the investigation of future possibilities of working with compensation measures.

By using case studies with illuminating examples, our aim is to examine projects from a variety of angles in a series of 'test beds', in order to find out how compensation measures might have been included in the projects as a part of the cultural heritage work. This is an experimental approach to the research, which will be applied to produce new knowledge based on the case studies.

Persons with entirely different kinds of experience and background will participate in the work with these 'test beds', in order to illuminate the matter from different angles. A point that they all have in common is that they have been involved in various cultural heritage projects. The participants have a background at the university or at museums, municipalities and government authorities; some are consultants (within cultural heritage work as well as within social planning), others are real estate managers and constructors. Our aim is that the results from the study of 'test beds' might lead to a renewal of praxis within the field and that the involved authorities might publish a guide on questions concerning compensation for affected culture heritage sites.

The research group of the project is comprised of Magnus Rönn (project leader), Rio Kulturkooperativ/KTH; Stig Swedberg, Rio Kulturkooperativ; Benjamin Grahn-Danielson, Rio Kulturkooperativ; Peggy Lerman, Lagtolken AB; Julia Nordblad, Rio Kulturkooperativ/University of Gothenburg; Tony Axelsson, University of Gothenburg; Maria Håkansson, KTH, Ann Åkerskog, SLU and Jonas E Andersson, KTH.

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<sup>1</sup> Cf. Magnusson and Swedberg 2010

### **Purpose, objectives and outline**

The purpose of this article is to present our project to a wider international audience, to start a discussion and exchange insights and ideas. Are compensation measures applied in the cultural heritage work of other countries? Are there experiences and knowledge that can be of use in our project? How can reasoning around compensation measures be manifested in community planning?

In this article, we will discuss the background of our project and our views of changes in the landscape. We will present a model of how compensation measures work in theory and how they can be developed through a system of feedback. The method is based on the development of models, case-studies including informative examples, as well as studies of literature and an analysis of reports from consultants and research studies. To show how compensation measures have been handled and are handled today, we will here illustrate this with an example from the case study about Lilla Aspholmen in Gothenburg. Finally, we will present some of the conclusions we have drawn so far in the research project.

## **Landscape and compensation measures**

### **The changing landscape**

Considerable changes are being made in the landscape by contemporary society. Nobody has previously experienced the speed and extent of such transformation. These changes lead to the rapid transformation of the physical environment that we experience in our post-industrial society. This is an environment created by us during the course of centuries in accordance with nature (and sometimes in discordance), which is rapidly losing its historical roots.

The occurrence of changes is not a new circumstance. Human impact on the landscape has been going on during our entire existence. The landscape of today is created by the cattle and farming of humans. The decline of grazing and the growth of forest in the countryside of Bohuslän during twentieth century is one example of the human transformation of landscape; the heaths of Scotland represent another example. These are not natural processes, even if such environments often seem to belong to the natural countryside. The inner parts of Finland used to be characterised by extensive clearing and burning to make way for crops. This has turned into large-scale forestry work. This substantial transformation of the landscape during the end of the nineteenth century and the beginning of the twentieth century led to steps taken to protect nature; during the same period, nature protection became an issue in Sweden, among other countries<sup>2</sup>.

Pollution and discussions about a sustainable society usually concern human impact on the climate, along with the negative consequences of deforestation and other physical interference on biological diversity. However, another important part of a sustainable society is to stop destroying the values of the cultural heritage in the landscape and instead start to look after them. Our history is not only created by ourselves, it is closely linked with the course of natural processes, just as nature has created our history. Consequently, we cannot only care for the one part, since we are a product of nature (and nature is largely a product human activity). We see this part of history in our surrounding countryside on a daily basis.

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<sup>2</sup> Kirkinen 2013, Nordblad 2013.

When it comes to questions of sustainability, we must include our cultural heritage in the debate. The physical manifestation of cultural heritage is a crucial part of the landscape in which we live; cultural heritage essentially consists of all things that humans have done at any time. Nevertheless, to preserve everything as it has always been is impossible and not even desirable. Change and development in the landscape and in the world is inevitable. But this development should not make unnecessary damage; it is up to us to protect and take care of the parts we want to keep of the cultural heritage in the landscape.

### **The democratic landscape**

In Sweden, the European Landscape Convention was taken into effect 1 May 2011<sup>3</sup>. After the ratification, Sweden is committed to incorporate it into Swedish law.

Part of the implementation of the Landscape Convention involves the promotion of transparency in decisions and processes concerning the landscape in local and regional administration; sustainable consideration of the values of the landscape as a whole should also be cultivated.

The Convention covers all types of landscape, buildings and features. Remains, countryside, communities, towns and cities are included in the landscape. According to the Convention, the landscape is a resource common to all people, comprising several different kinds of values that need to be protected and cared for. In the work of reaching sustainability, the acceptance and ratification of the Landscape Convention now provides support when it comes to protection of cultural heritage values in the landscape.

### **What are compensation measures?**

In the US and in several European countries (mainly Germany), compensation measures have been applied within nature preservation since the 1970s<sup>4</sup>. This action is used when valuable marshland and natural environment is threatened by land development. Compensation measures are designed and are handled in different ways in different countries. Sometimes a system of project banks is used, into which developers pay a sum of money for the damage caused by development work. The money is then used for a portfolio of projects in aid of recreating wetland, or to build up natural environments, in order to make amends for the encroachment. In Germany, a compensation method termed balancing is applied; this has influenced the debate in Sweden. Balancing means that values that are destroyed in land development are recreated. This method is based on quantitative data in which each biotope, environment or feature is assessed to establish its value<sup>5</sup>.

At least in theory, it is simple enough to work with compensation methods when the natural environment is threatened. The balancing principle, which is used in Germany and has been tried in Sweden, involves making a quantification of the environmental values that are to be compensated. Affected natural environments are assessed and are given a value based on various quantitative criteria. A natural environment with the same value is then recreated. However, compensation of cultural heritage is a matter of restoring qualitative aspects of values that are experienced in the landscape.

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<sup>3</sup> Council of Europe 2000; Web site of the Swedish National Heritage Board 2013.

<sup>4</sup> Persson, J 2011.

<sup>5</sup> Persson, J 2011.

In Swedish legislation, the developer is expected to take steps, which minimise the impact as far as possible<sup>6</sup>. A permit can only be provided when this is achieved. The remaining damage should then be compensated through specific measures. In other words, compensation measures are not intended as a way for developers to buy themselves free from disturbances that are made; it should only be used after an inquiry into the development project has been carried out. This course of action is intended to ensure that the remaining damage is as limited as possible; damage that nevertheless does occur is thereafter compensated.

### **Compensating cultural values**

How should compensation measures be applied when cultural environments are affected? To recreate marshland is possible, but how do we restore a unique cultural value. Let us say that an older house with characteristic architecture dating from a certain period, or that is typical of a certain environment, is demolished. Is the value of the house recreated if a new, almost exactly similar house is built? This is the tough nut for our research project to crack.

An important part of the cultural heritage consists of all the remains from the activities of earlier generations of people, which we simply call ancient remains. These include settlement sites and graves, but also ruins of cottages and houses along with other remains. In Swedish heritage legislation, a difference is made between ancient monuments and 'other culture historical remains'. In simplified terms, we can say that ancient monuments originate from times before industrialism, while 'other culture historical remains' are dated to the period after the commencement of industrialism. The legislation protecting ancient monuments is strong. Normally, the development of the site of an ancient monument entails archaeological excavation. Other culture historical remains are only protected through sections of the law recommending due consideration; this still usually does not mean that remains are removed without any form of action. However, ancient monuments are not necessarily the feature with the highest value (at least not for people who are part of the landscape).

As in most parts of Europe, archaeological excavations are conducted when a site is affected by land development. If a real estate manager in Southampton wants to build a housing estate, which will damage one or two Iron Age burial sites, the local authorities will most likely request an archaeological excavation; this would be the case in the municipality of Tanum in Sweden too.

Can we thus regard an archaeological excavation as a compensation measure? In our opinion, it is not the same thing. The land development removes part of the physical manifestation of the cultural heritage in the landscape. At best, an archaeological excavation will lead to the publication of the results in a report, printed in around 50 copies, which are sorted into libraries and are read by few. The cultural heritage site, on the other hand, is gone. The archaeological excavation safeguards the knowledge inherent in the ancient site, but only preserves a small part of the value.

A similar parallel is damage to a built up environment of culture historical interest. When an older house is demolished, part of the character of the surroundings is taken away. According to our point of view, demolition of historical buildings should be compensated when the cultural environment is considered to be of significance. In this case, documentation cannot be counted as compensation for damage to the cultural heritage. The architectural and culture historical values in the environment that are lost in the development need to be replaced. This can be achieved through preservation plans reinforcing the protection, management plans and

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<sup>6</sup>Lerman, P 2013.

maintenance of older buildings. An alternative is that architectural features are incorporated in the new buildings.

Compensation measures can hence be designed in different ways. The aim must be to compensate for the removal of qualitative values. Qualitative values are what people become attached to and which are important features of the landscape, not the number of ruined cottages, Mesolithic settlement sites or preindustrial buildings.

This is the context when the Landscape Convention becomes significant. Only when the qualitative values of the cultural heritage are determined, is it possible to apply compensation on terms approved of by members of society. Consequently, in the planning of the landscape, it is necessary to use methods that consider the wishes of the people living there. Several different methods can be applied, such as Historical Landscape Characterisation<sup>7</sup>, Landscape Character assessment<sup>8</sup>, DIVE-analysis, etcetera<sup>9</sup>. The most important thing, however, is to choose a method that includes the people, but also produces a relevant base of knowledge that can be used in community planning. This must clarify the values of the cultural heritage and be able to influence the development of the landscape.

## Models and work methods

In the literature, compensation is mentioned as (a) a tool used in community planning, (b) a work method for measures intended to make amends for development damaging the landscape/environment, (c) a deterrent used to prevent losses of cultural heritage values, (d) as a means to control or steer the planning, design and placing of building projects. The concept is thus used to describe several processes and situations in community planning.

In the Swedish Environmental Code, compensation is regarded as “*a description of planned measures to avoid, lessen or prevent damaging effects*”.<sup>10</sup> According to the Environmental Code, chapter 16, permissions and exemptions can be combined with claims of compensation for the encroachment of public interests. Thus there is support in the law for demand of compensation. Initially, two questions need to be answered.

- What are compensation measures?
- At which stage in the community planning are compensation measures used concerning negative intervention in cultural environments (landscape).

Measures that are taken are not always seen as compensation. In community planning, certain conditions need to be fulfilled before measures are regarded as compensation. There must be a case of (a) land development of a cultural heritage area, which (b) leads to a negative impact (damage or loss of cultural value/qualities), in turn (c) requiring physical compensation or measures. This has to be (d) regulated in an agreement with the developer, or appointed in a decision taken by the authorities and should (e) be carried out within a certain time. This specification implies that the compensation is connected with interventions that might damage the cultural heritage and consequently need to be regulated within community planning processes.

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7 Englist Heritage 2004

8 The Country Side Agency 2002

9 Riksantikvarien 2009

10 Environmental Code (Miljöbalken) chap 6, §7.



## Two approaches to the cultural heritage

The cultural heritage is of public interest; it needs to be strengthened and given a more prominent position in community planning. We see two strategies—*principle 1* and *principle 2*—for how the implementation of compensation measures can be broadened.

**Principle 1:** *Claims for compensation concern the entire cultural landscape without any spatial delimitation.* According to the Swedish Heritage Conservation Act, there is a general interest in protecting and of taking care of the cultural heritage. The opening paragraph is phrased in the following way.

*The care and preservation of our cultural environment is a matter of national concern. Responsibility for this is shared by all. Both private persons and public authorities must show consideration and care towards the cultural environment. Anyone who plans or carries out work must ensure that damage to the cultural environment is, as far as possible, avoided or limited.*<sup>11</sup>

Principle 1 contains a general claim on community planning, in which all development projects carried out in the landscape should be preceded by investigations clarifying which compensation measures are needed, in order to restore the lost values of the cultural heritage. Building up a thorough knowledge is a prerequisite for making the qualities of the landscape visible in community planning; this can be integrated in a professional management of the cultural heritage and its values. Without the support of a plan of action, a cultural heritage point of view is not able to influence the planning processes.

**Principle 2:** *Compensation should be claimed in cases when the cultural heritage is defined as valuable according to government or municipal decisions.* This means that compensation measures are spatially delimited—but specified—to areas that have been determined as valuable and consequently important to preserve, protect and care for. According to this view, compensation can be applied in the following kinds of development areas.

- *Cultural heritage defined by the government*; these include cultural environments such as world heritage sites, sites of national importance, prehistoric sites, historic buildings, cultural reservations, etc.
- *Cultural heritage defined by municipalities*; these comprise valuable environments identified in cultural environment programmes, culture historical investigations, preservation plans and local architecture programmes, including buildings with a demolition ban and listed buildings/blocks of houses, etc.
- *Local environments defined as a 'good urban environment'*; according to the national environmental objective 'good urban environment', the cultural, historical and architectural heritage in the form of buildings, environments, places and landscape should be cared for and promoted.

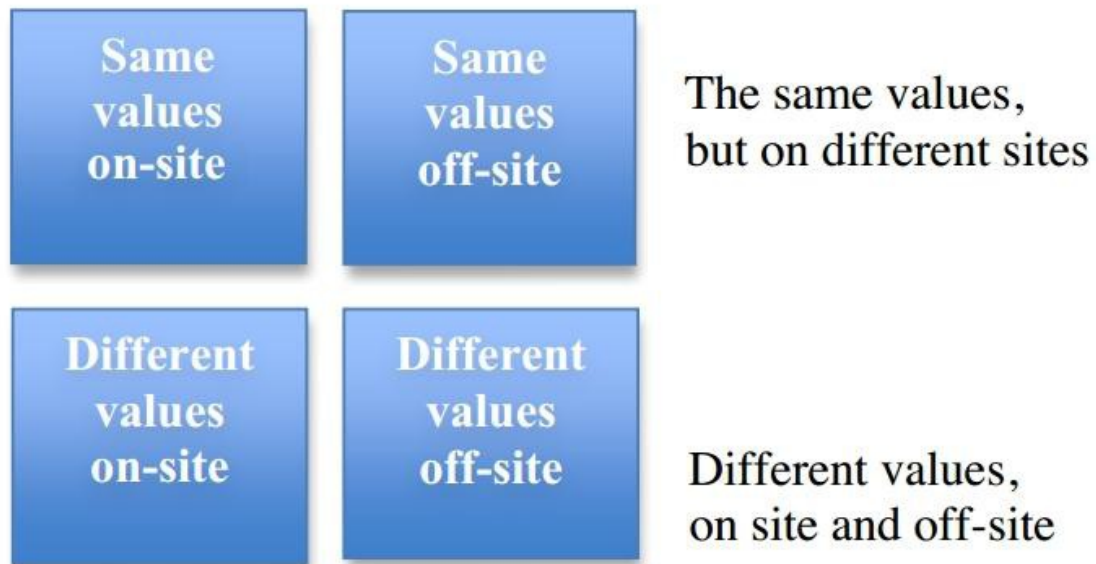
In accordance with this approach, compensation becomes a work method that can be applied to heritage sites defined by the government and to the fulfilment of national objectives, but may also be applied to locally defined cultural environments. Compared with contemporary praxis, this is a substantial broadening of the application, covering a range of environments from areas of national importance and cultural reservations to valuable cultural environments.

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<sup>11</sup>Swedish Heritage Conservation Act (Lagen om Kulturminnen m.m. SFS:1988:950), chap. 1, §1.

### Compensation as a typical case

Community planning constitutes a public arena for planning and negotiation, carrying out and following up compensation measures and actions. There are at least four fundamentally different strategies for reconstruct the damage of cultural heritage sites and valuable landscapes<sup>12</sup>. These strategies can be summarised in the following model.



*Model 1: Four types of compensation measures*

The first strategy is to restore the same values of the cultural heritage as those that were lost, either in the same place or adjacent to the intervention. In this case, damage and compensation measures are spatially connected.

The second strategy is to restore the same values of the cultural heritage, but in another location in the landscape. The total value of the heritage is constant, but in order to assess the fulfilment of objectives, two different contexts must be considered.

The third strategy is to provide the site of the intervention with other heritage values. The spatial connection between the damage and the compensation measure remains, even if the surroundings are supplemented with new equivalent values of another kind.

The fourth strategy consists of reconstructing other values in a new location in the landscape. Damage and compensation are spatially separated and contain different features. Consequently, the capacity of the measures to compensate for the loss needs to be included in a total assessment of the heritage.

### Compensation as a form of action

The procedure of the concerned parties in community planning, in relation to land development projects affecting cultural heritage sites, can be divided into four basic forms of action, according to von Wright<sup>13</sup>. There are both advocates and gatekeepers in the planning

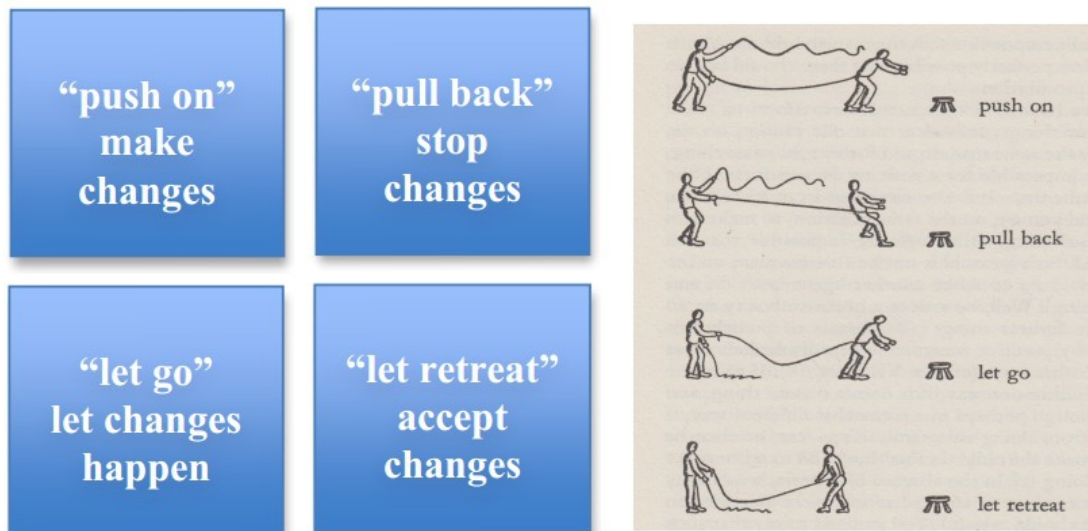
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<sup>12</sup> Persson, J 2011

<sup>13</sup> Wright, G H von 1963



processes. In community planning, the way of managing interventions in the cultural heritage can be described as follows.



*Model 2: Forms of action in community planning*

The first strategy is to restore the same values of the cultural heritage as those that were lost, either in the same place or adjacent to the intervention. In this case, damage and compensation measures are spatially connected.

The second strategy is to restore the same values of the cultural heritage, but in another location in the landscape. The total value of the heritage is constant, but in order to assess the fulfilment of objectives, two different contexts must be considered.

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### **Involved parties and compensation**

Municipalities who apply compensation measures advocate voluntary agreements with the developers. Claims of compensation are regarded as a question of negotiation. Such a model of agreement is described in the following way by the City of Gothenburg in their guidelines: *"Compensation measures are based on voluntary settlements; in the case of a private developer, this is ensured through a land development agreement"*.<sup>14</sup>

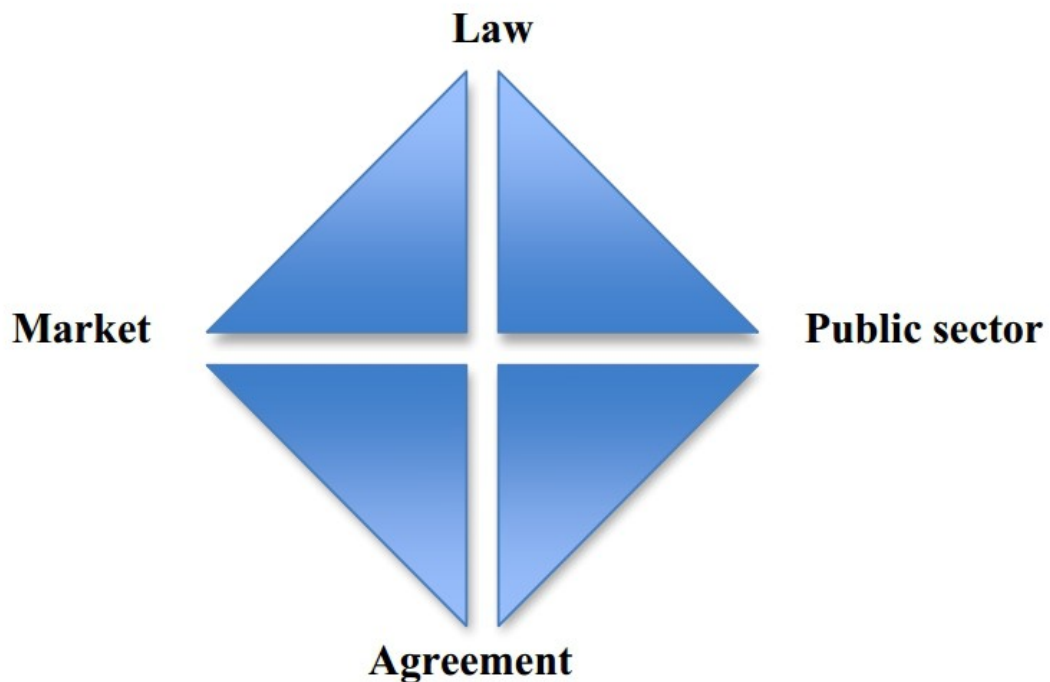
The other method is to settle compensation measures according to a decision of the authorities. This implies that there is support in the law for the compensation<sup>15</sup>. Parties that do

<sup>14</sup> Hansson E., m fl. 2009, s 5.

<sup>15</sup> Bengtsson, B 1997

not have a strong influence in the municipality planning process usually support decision-making by governmental authorities. A typical example is appeals.

Both ways of regulating compensation measures can be found in community planning, especially in areas with cultural sites identified as valuable. This can be illustrated as follows.



*Model 3: Actors and regulation principals*

The model consists of two intersecting axes. The one axis describes *decision methods* and the other shows *decision makers*. The axis of the decision makers has two poles; the one is the market and the other is the public sector. Key actors of the market are developers, landowners and municipalities. The public sector in the model comprises municipal departments, exercising public authority, and government authorities.

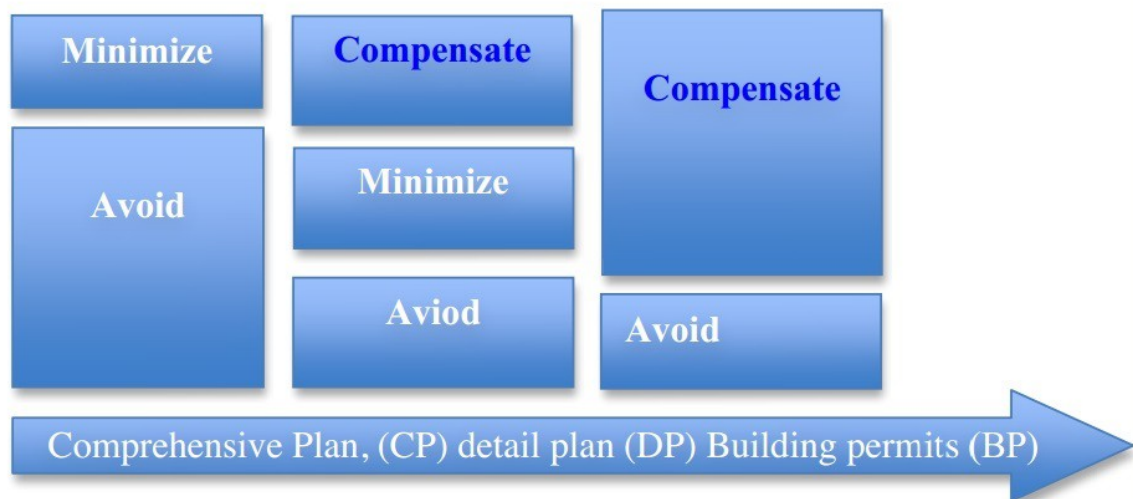
The intersecting axis describes decision methods. The one end represents voluntary settlements formalised in agreements; the other end of the scale corresponds to decisions taken by authorities, based on regulations in law. The legal regulation is debated and there are few cases of compensation for damages on cultural heritage sites, which have been tried by county administrative boards or in court. The defence of cultural heritages seems to have a weak position as a public interest compared with other more specified demands.

### **Community planning; levels and phases of planning**

In community planning, developers, constructors, municipal administration and government authorities have compensation measures at their disposal. These key actors negotiate how compensation should be understood in practice. This applies both to interpreting the meaning of the concept and to its practical use in the form of specific action in planning processes. Consultants make proposals and produce supportive knowledge and information for planning.

Compensation measures in community planning are included in the so-called principle of balance according to German model<sup>16</sup>. Compensation is in this context seen as a last resource, to be applied if damage cannot be avoided through a different location of developer projects, or by better adaption to the site and its surroundings. From this viewpoint, damage of the cultural heritage caused by development projects should primarily be avoided. If that is not possible, damage should be minimised through the proceedings of the planning and design. Compensation should be applied only when these options have been considered. Replacing lost values through compensation measures is thus an ‘emergency solution’ in community planning. This is the reason for the desire to integrate considerations concerning compensation into community planning; into levels spanning from comprehensive planning to detailed planning and building permits, including monitoring of taken action.

The relation between levels of planning, activity and phases that occur, when ways of thinking concerning compensation are transferred to the domain of community planning, can be summarised as follows.



*Model 4: Compensation in community planning processes*

The model shows that compensation measures mainly are claimed in connection with detailed planning, in which the use of the site is specified, and in relation to building permits. At this stage, the location of the developer project is already determined by agreements between developers and representatives of municipal administrations and/or politicians. Here is an explanation why compensation does not become an issue until the planning programmes and detailed plans are produced. The result might be that compensation measures emerge as a negative contention, delaying the plan or making the development of a site, established to be of value to the public, much more expensive. Instead of being something good and desirable, values in cultural heritage become obstacles in the planning processes, which are difficult to defend.

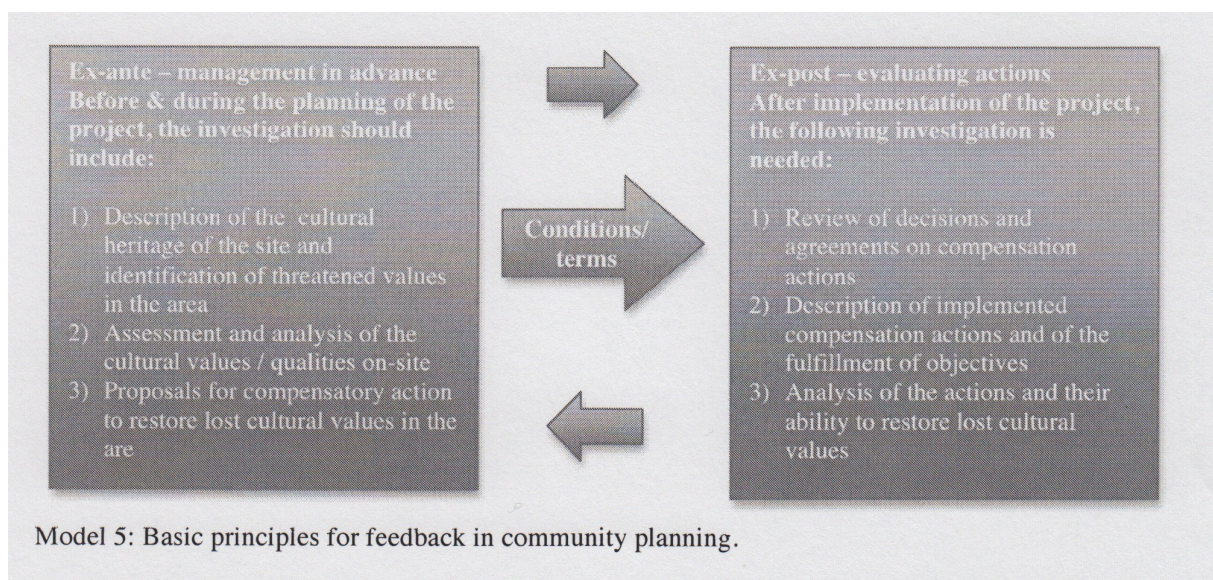
### **Feedback of experience and developing praxis**

Claims of compensation measures in connection with development of cultural heritage sites need to be combined with a regular system of feedback of experience within community

<sup>16</sup> Skärbäck, E 1997

planning. There are two reasons for this; firstly, to create prerequisites for the *accumulation of knowledge* within community planning. Secondly, a *professional praxis* concerning compensation measures would be established among administrative officers in municipalities and government authorities, consultants and businesses operating within the field of cultural history.

Consultants, purchasers and the officials of municipal administration and government authorities gather experience of applying compensation measures in planning processes. Purchasers of assignments concerning the cultural heritage have a key role in their capacity of clients and responsible developer. Consultants report their results to the clients, municipalities and authorities granting permission. Usually, this is where the assignments end; consultants are not informed about how their proposed compensation measures are managed further on in the planning process. There is no feedback of experience. Due to this, we would like a change in the way assignments to consultants are designed; these should be formed in such a way as to enable the accumulation of professional knowledge in community planning. A model is proposed here.



*Model 5: Basic principles for feedback in community planning.*

The model is an attempt to bridge the gap between compensations through ex-ante demands and learning by ex-post assessment. It is necessary to apply knowledge before development projects are designed; suitable compensation measures need to be combined with evaluation of conditions /terms and the actual outcome of municipal planning. The planning, design and production of developer projects should be clarified explicitly, the impact on the culture values on the site must be known before implementation. This can be achieved through preparatory studies of the site. Consultants play an active part in this accumulation of knowledge through their investigations of cultural heritage values and compensation proposals.

Damage to the cultural environment needs to be identified, assessed and compensated through action regulated in decisions, agreements, detailed plans and building permissions. However, decisions and applied compensation measures also have to be followed up and evaluated. This broadens the assignment of the consultant. The accuracy of the taken action, fulfilment of objectives and the ability of restoring the values of the cultural heritage should be included in



the compensation. In this way, we achieve a coherent view of the assignment, effectively extracting knowledge from practice. This is the basic outline of our model, with the aim of creating a regular system for feedback of experiences from cultural heritage investigation in community planning. This would result in a professional accumulation of knowledge and a way to improve the praxis concerning compensation measures, which enable us to restore lost values in the cultural heritage due to development projects

## Case studies

The background to the project is that the praxis of suggesting compensation measures for the loss of cultural heritage, in our view, occurs in too few cases in Sweden today. References to legislation vary and are unclear. No formal decisions are made by authorities concerning the compensation, despite the fact that consultants in their reports have proposed measures. When compensation does come into effect, this is settled by agreement and not through decisions of the authorities. In order to clarify these processes, a few cases will be studied within the project. In these cases, the question of compensation measures for the loss of cultural heritage was raised by one of the involved parties in the process of community planning.

### Gothenburg Harbor - Lilla Aspholmen

Our example in this paper is Gothenburg Harbour. The case study concerns the island *Lilla Aspholmen*. The possible development of the land here, gives rise to the discussion about compensations measures. A few reservations will be mentioned to begin with. The case study is not entirely finished and these are preliminary results. Further, we will only mention the question of loss of cultural heritage values in this paper; we will not be mentioning the losses concerning the natural environment. We will not go into detail concerning all the phases of the matter, only the main proceedings will be outlined. The question of how to calculate the economic value of the compensation measures will not be discussed here and neither will we make an evaluation of how the damage was assessed and valued. The purpose is to point out basic characteristics of how questions of cultural heritage were handled in community planning.

The islands Lilla Aspholmen and Stora Aspholmen along with the fortress Nya Älvsborgs fästning constitute an area of national importance to the cultural heritage.

Important features of the heritage area comprise

- *the wide view, the silhouette of the outer walls of the fortress and the various buildings of the courtyard such as the house of the governor of the fortress, the hospital, the walls of the fortress, barrack rooms and armoured vault.*
- *The neighbouring islands Aspholmarna with the cemetery on Stora Aspholmen*<sup>17</sup>.

In the detailed development plan of the City of Gothenburg, it was established that Nya Älvsborg and Stora Aspholmen should be protected through a preservation plan. Lilla Aspholmen, on the other hand, was defined as an area for summerhouses, although a small part was set aside for industrial activity.

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<sup>17</sup> Riksintressebeskrivning Göteborgs- och Bohusläns 1996.



*Illustration 1. Overview photo of the outer harbor area of Gothenburg, with the Islands Lilla- and Stora Aspholmarna and the 17<sup>th</sup> century fortress Nya Älvsborg.*

Apart from the features on Lilla Aspholmen listed for the area of national importance to the cultural heritage, there are also the remains of a salting house for herring, a rock carving from historical times, parts of a barrier of the channel and a harbour area. A feature that has not been described in the reports of investigations of the area is the small-scale summer cottage area, which has evolved on the island, associated with holiday facilities for workers. This is an expression of a culture historical transformation occurring during the first half of the twentieth century. In the detailed development plan, parts of the cultural heritage were considered worth protecting, while other heritage values of Lilla Aspholmen were suppressed.

The development plan of expanding the outer harbour of Gothenburg started in the 1990s and was made concrete in conjunction with the Comprehensive Plan of 1999<sup>18</sup>. In the same year, the Port of Gothenburg (Göteborgs Hamn AB - GHAB) presented their master development plan<sup>19</sup>, suggesting the extension of areas for handling goods such as cargo containers, cars and ro-ro goods. After this, the planning work was initiated, resulting in the *Detailed Comprehensive Plan, Concerning the Area of the Outer Harbour*, which was implemented in 2006<sup>20</sup>. In this plan, the question was studied whether an alternative to the land development

18 Översiktsplan för Göteborg 1999. Göteborgs Stad.

19 Generalplan Göteborgs Hamn 1999. GHAB.

20 Fördjupad översiktsplan för ytterhamnsområdet 2006. Göteborgs Stad.



of Lilla Aspholmen could be found. The answer was that there were two alternative strategies for the development work, but they were too expensive to carry out. The cost of 500 million SEK was mentioned for one of these alternatives. An alternative was also presented of letting the island Lilla Aspholmen remain as it is. The cost of this was specified to 3 billion SEK, based on the loss of future revenue.

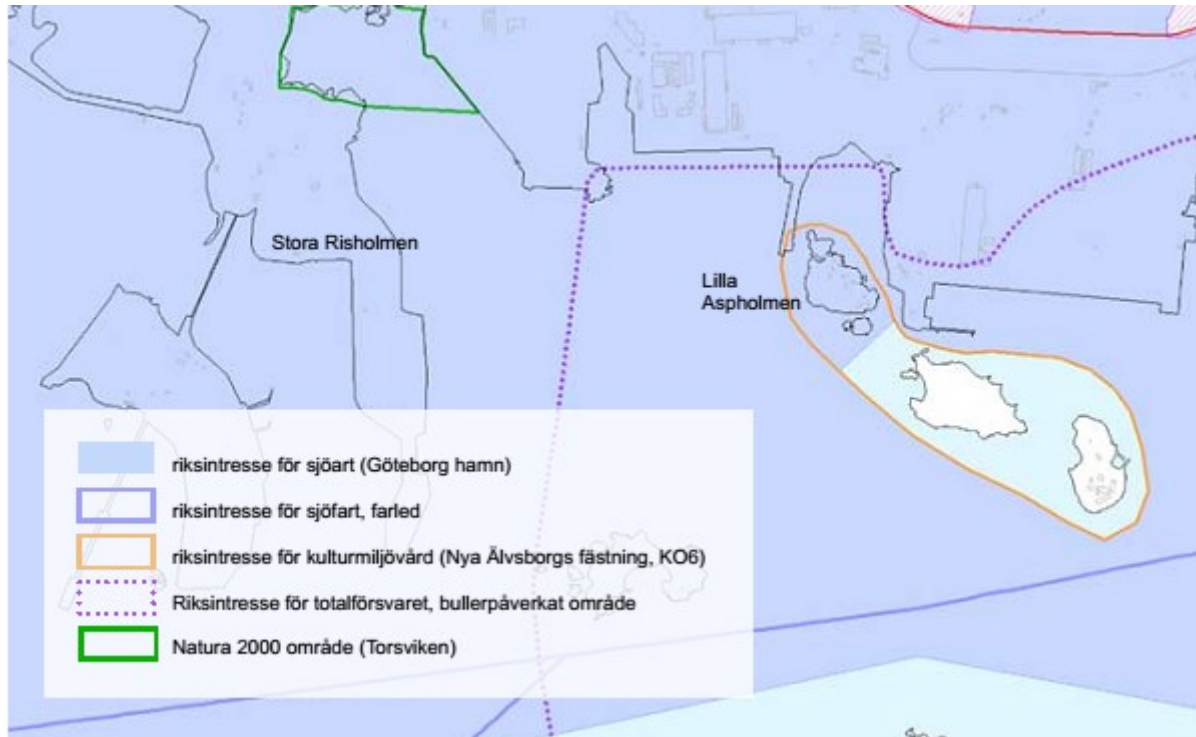


Illustration 2. The detail plan involve both the national interest for shipping (Gothenburg harbour) and national interest of cultural heritage management (New Älvsborgsbron).

Besides the interests of public economy, the choice of an alternative involving the land development of Lilla Aspholmen was motivated by the following.

Impact on the historical environment should be acceptable since this mainly concerned a visual aspect and was considered to be of marginal consequence. Also, the island was already affected by previous development. Furthermore, parts of Lilla Aspholmen are specified in the current detailed development plan as a development area for the harbour.

In this context, the question of compensating the cultural environment is raised.

*Is it possible to compensate this encroachment of the cultural environment in any way? A suggestion that would give a clearer picture of the historical context is that the Port of Gothenburg should provide for exhibitions in some suitable way, showing the historical line of defence. One exhibition could be placed at the fortress Älvsborgs fästning and the other perhaps at the fort of Oscar II at Älvsborg<sup>21</sup>.*

After the detailed part of the comprehensive plan for the outer harbour was accepted, a new comprehensive plan for Gothenburg was implemented in 2009. Here, the suggestions from the detailed part of the plan were incorporated. Subsequently, the detailed development plan was

<sup>21</sup> Fördjupad översiktsplan för ytterhamnsområdet 2006. Göteborgs Stad.

drawn up for joint consultation<sup>22</sup>. It was stated in this plan that in the context of comprehensive planning, the development of the harbour is of greater public interest than preservation of the cultural heritage of the surroundings of Älvsborg. The County Administrative Board supported this assessment, stating that the balance between different interests should be adjusted in the detailed development plan. Two alternative formulations were included in the detailed development plan. Both cases involved the land development of Lilla Aspholmen. The loss of cultural heritage values occurs when parts of the cultural environment are removed and the relation between the remaining parts is impaired. Therefore, the plan included suggestions for measures to compensate for the loss of cultural heritage values through an agreement between the City of Gothenburg and GHAB. These compensation measures were regulated through the implementation agreement. Both sides of the agreement stated that compensation measures involving areas outside the detailed development plan could not be regulated according to this plan. Furthermore, a comment was made that the policy of The City of Gothenburg had been regarded, concerning compensation for the loss of natural environment and recreation areas. Since this was estimated to be an encroachment of lesser consequence, voluntary compensation measures was proposed.

When the detailed development plan was drawn up in 2009, the County Administrative Board of Västra Götaland and GHAB came to an agreement about compensation measures amounting to four million SEK. The agreement stated that these compensation measures were intended for the public. The history of the defences of the city and the history and future development of the harbour should be told to the public in some suitable way.

The County Administrative Board conducted the investigation concerning possible compensation measures through the Museum of Gothenburg, the Maritime Museum and the county museum, Bohusläns museum. The work was commissioned by GHAB. Further, The City of Gothenburg suggested a compensation measure in the detailed part of its comprehensive plan.

### **A compilation of proposed measures**

- 2006 Western Defences – creating a network of visitor centres presenting marine history and history of defence. This was aimed for the public.
- 2009 Cultural heritage and cultural environments in the surroundings of Lilla Aspholmen and the conference centre Arken – creating a foundation for research and management of the cultural environment, aimed for researchers and the public.
- 2010 Drawing up compensation measures – increasing the knowledge of the surroundings of the harbour through models, at libraries and in exhibitions, with the aim of reaching researchers and the public.
- 2010 Drafting an idea of The Atlas of the Harbour City – an interactive map in which stories can be told on several levels about the same place. This was aimed for the public.

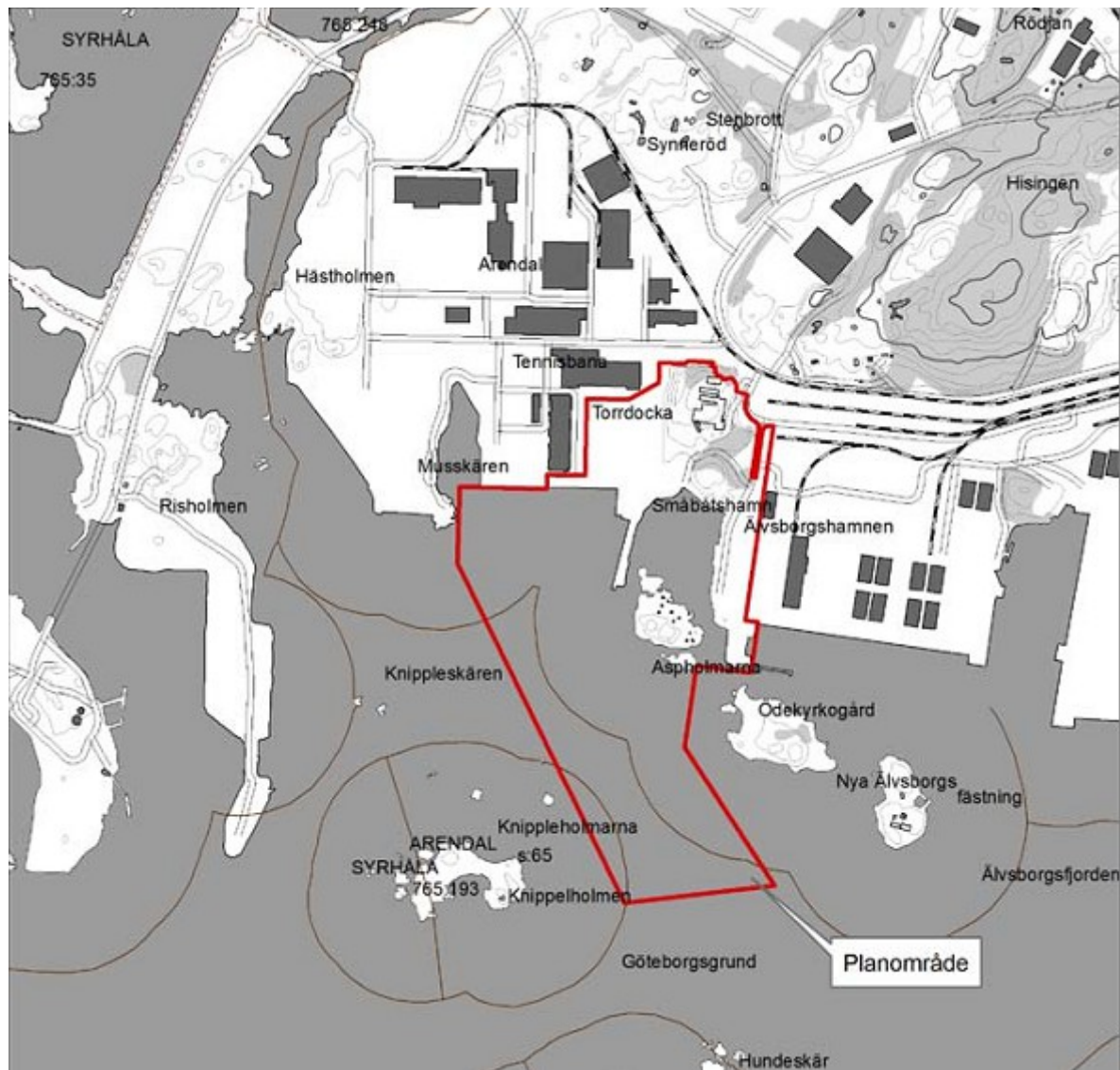
However, during 2012, the County Administrative Board of Västra Götaland, GHAB and The City of Gothenburg signed a new agreement concerning compensation measures, declaring the previous agreement invalid. In this agreement, the sum of four million SEK is still specified. A new point is that the Cultural Committee of the City of Gothenburg is appointed

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<sup>22</sup> Detaljplan för hamnutvidgning vid Lilla Aspholmen samt utbyggnad av konferenscenter. Samrådshandling 2009. Göteborgs Stad.

to draw up a suggestion of compensation measures and that the National Property Board will be part of the collaboration. The Cultural Committee is to submit a suggestion to GHAB for approval.

In this case study, it is evident that there are uncertainties as to which legislation to follow and who has the right to decide about compensation measures, but also which values that should be restored. In the development planning of the municipality, it was clear at an early stage that a conflict would arise between the national importance of the harbour/shipping trade and the cultural environment. Compensation measures were discussed in the detailed part of the comprehensive plan, concerning the outer harbour, without reference to the law or sections of the law. In the detailed plan, the question was also included without mention of regulations; in the descriptions of voluntary compensation measures, these were stated to be over and above necessary compensations according to the Environmental Code. This implies that claims for compensation measures are suggested to be solved through an agreement, even though they are based in the Environmental Code. The comment about compensation measures in areas outside the plan might be a sign that the author of the plan considered the connection with the Environmental Code as too unclear. Therefore, a clearer way is to solve the matter through an agreement. An interesting point is why the matter of solving the question through agreement arises. According to the Environmental Code, a settlement should be made between the different interests of national importance; there is no claim that the interests of the yielding part should be compensated. The question of compensation should instead be sought in the pre-understanding that this is an important question, which the administrative officials cannot find support in the law to handle. In the mean time, the involved parties discuss an agreement. This is based in unclear legislation and a similarly unformulated public interest. All this has led up to the two agreements that were signed, of which the one annuls the other.



This case illuminates the unclear legislation and the uncertainty of the administrative officials as to how to deal with the question of compensation in development areas containing several different heritage values. When there is a strong opinion among the public, this can be solved through an agreement, but this means that the right to make decisions in the matter is taken out of the hands of the cultural heritage authorities. Note that GHAB, the developer, has the right to finalise the compensation measures. There are pros and cons of applying legislation or relying on agreements in matters concerning compensation. Legislation would make the matter clearer and enable public control of the management, but the proceedings might be more inflexible and might lead to the failure of carrying out justified compensations. Claims for compensation can be made through agreements if there is a public interest or if the developer is benefitted by it economically.

## Conclusions

In the compilation of the state of knowledge, with which we commenced the work of this project, we discovered that there is support in the law for compensating matters that are of public interest, which can be applied when cultural heritage sites are threatened. However, there is no formulated praxis for commissioning, elaborating and evaluating such claims in community planning. When the question of compensation measures crops up in reports from consultants, those who are responsible tend to avoid the question. Only occasionally – when

culture heritage of national importance is threatened by development – does compensation become a question of negotiation in community planning.

*Illustration 3. The map shows that the entire Lilla Aspholmen is included in the area for the detail plan, as well as the quay area will affect the cultural heritage area of the fortress Nya Älvsborg. The national interest of shipping is prioritized before the national interest of cultural heritage management, but this requires that an agreement about compensation measures for the impact is signed between the parties.*

The model and work methods, which we have presented, form a theoretic frame around compensation measures. In the case of Lilla Aspholmen, it is clear that there are uncertainties in legislation and professional praxis.

In order to work with compensations measures in the future, an upgrading of cultural heritage and its significance for people needs to be manifested in community planning in an entirely different way than it is today. The matter of compensation needs a theoretical foundation in the legislation. Without knowledgeable supportive information in the planning, clarifying the values and qualities of the cultural heritage in the landscape, the question of compensation will not be negotiated in community planning. We consider that some form of guidance from the authorities is needed to be able to handle the question. An important point is to make the decision at an early stage, concerning whether the compensation measures are intended to apply to the general landscape, or only to certain delimited areas. Another relevant aspect is whether the future course of action should be based on the law, or whether it should be regulated through agreements between representatives of public interest and land developers. Both alternatives involve advantages and disadvantages.

However, the basic step in reaching a sustainable society is that the inhabitants are included in the process of making decisions about the protection and maintenance of their common environment. Therefore, it is important to make sure that functional compensation routines are put into practice.

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