

Sparks fly in the race for Electric Vehicle Charging Hubs - legal considerations for Irish landowners

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On 14 February, the European Parliament voted to phase out the sale of any new international combustion engine cars by 2035 along with committing to reduce overall car emissions by 55% by 2030. This follows the 19 January launch in Ireland of the Electric Vehicles Charging Infrastructure Strategy by Minister for Transport Eamon Ryan, which has earmarked €100 million in public funds to be spent on charging infrastructure nationwide over the next three years.

In order for the Strategy to be successful, new electric vehicle (EV) charging hubs will need to be set up on main road arteries throughout the country, particularly in current blackspot areas. In order to meet the challenges set at European level, it is foreseeable that public EV charging hubs will need to be present and operational in every town and village in Ireland post-2035.

The adoption of the Strategy presents opportunities for landowners. Many EV operators have been active in scouting potential sites to install their EV charging hubs. As expected, service station operators are seen as prime targets however owners of shopping centres, hotels, and retail/industrial estates are also being approached.

The occupational arrangement between landowner and EV operator may be documented in two ways:

- A short-term licence agreement, or
- A lease

In either case, key fundamental terms such as rent and term length will have to be agreed. It must be explicitly provided for in the agreement that the EV operator has the consent of the landowner

to develop the charging hub within the occupied space subject to the EV operator having complied with planning and related regulations. The landowner must ensure that the EV operator has full responsibility for repairs to the occupied area as well as ensuring that the occupied area is returned as it was - bar any consents granted in relation to charger development - at the end of the term. It is also recommended that the landowner insist that the EV operator execute a Deed of Renunciation in favour of the landowner, renouncing all rights to an extended term.

EV operators are likely to insist on a number of terms of their own, including rent-free periods (while they develop the charging hubs) and exclusivity. Easements will have to be granted in order for the EV charging hub to be connected to the grid. Some EV operators may wish to enter into agreements prior to taking up occupation, such as option agreements or agreements for lease, which from their perspective secures the proposed EV charging hub site for a period until such time as certain conditions are met.

Tenants in commercial leases may also be approached by EV operators to develop EV charging hubs within the lands that they occupy. Subject to the terms of their lease, tenants will need to ensure that they have the consent of their landlord to sub-lease or sub-licence to an EV operator. If the tenant is already a known EV charging hub operator and wishes to develop an EV charging hub on a site that they occupy, they must obtain the relevant consent to alter from their landlord.

It is plausible that we are only a generation away from a continent without petrol or diesel vehicles. If targets are to be met, the availability of land to develop the charging hubs necessary to power electric vehicles is crucial. Landowners will therefore be presented with new opportunities to earn revenue from occupational arrangements with EV operators. If you wish to discuss such an arrangement or obtain further advice on this topic, please reach out to our Real Estate team in Dublin on ireland@ogier.com.

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