



Question

Whether the works of a freestanding electric vehicle (EV) charging unit together with a retractable charge arm, located wholly within the curtilage of the property is or is not development and is or is not exempted development.

Location

10, Templemore Avenue, Rathmines, Dublin 6

Declaration

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

0562/25

Applicant for Declaration

Maria Migone

Planning Authority Decision

Is development & is not exempted development

Referral

Referred by

Maria Migone

Owner/ Occupier

Maria Migone

Date of Site Inspection

10/04/2026

Inspector

Conor McGrath

1.0 Site Location and Description

- 1.1. The subject site is located at 10 Templemore Ave, Rathmines, Dublin 6, comprising a mid-terrace, two-storey house. The property, in common with neighbouring properties in the terrace, is provided with a front garden with pedestrian access only from the public road. The terrace is also served by a rear, mews lane to the west.
- 1.2. Within the front garden, an EV charging unit has been installed on a tall metal post, with a retractable arm to provide for the charging of vehicles while parked on the adjacent public road. Templemore Road is relatively narrow, with on-street parking on both sides, with cars noted to commonly mount the kerb while parked.

2.0 The Question

- 2.1. The question which was put to Dublin City Council related to:

Whether:

A freestanding electric vehicle (EV) charging unit together with a retractable charge arm, located wholly within the curtilage of the property. The apparatus comprises

1. A freestanding post approx. 250cm high;
2. A retractable arm with a maximum horizontal extension of approx. 245 cm;
3. A charging cable suspended at a minimum height of approx. 243 cm above ground;
4. A compact charger unit mounted to the upright within the property boundary;

The equipment retracts fully when not in use and does not constitute a traffic hazard or obstruction;

is or is not development and is or is not exempted development.

The case made by the referrers in their application to the planning authority generally reflects the points raised in the referral to the Commission, outlined in section 6.1 of this report below.

3.0 Planning Authority Declaration

3.1. Declaration

By order dated 22/01/2026, the planning authority determined that the proposed development is **Not Exempt** from the requirement to obtain planning permission under section 32 of the Planning and Development Acts 2000 (as amended).

Reasons and Considerations

The freestanding electric vehicle (EV) charging unit together with a retractable charge arm charging point, as described in the Section 5 application is development within the meaning of section 3(1) of the Planning and Development Act 2000, as amended, and is not exempted development as it does not fall within the conditions and limitations of Class 29A of Part 1, Schedule 2 of the Planning and Development Regulations, 2001, as amended, as the exemption does not specifically mention charging arm mechanisms, which by their very nature, would mean an electric cable traversing over the public footpath. Furthermore, it would endanger public safety by reason of traffic hazard or obstruction of footpath users and would there (sic) be contrary to Article 9(a)(iii) of the forementioned regulations.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planning Officers report on the application notes, inter alia, the following points:

- The proposal may be considered to comprise construction works, which are development for the purposes of s.3(1).
- This is a charging point within the curtilage of a private dwelling.
- It appears to be within the relevant size limit of 3-cu.m.
- The exemption does not refer to retractable charging arms.
- The retractable arm of the charging point extends over the public footpath.
- There are concerns that when extended, in itself and taken cumulatively with other structures of this type, it could impact on footpath users.

- Generally the positioning over the public footpath would require consent of DCC and could not be otherwise authorised by way of a planning application.
- Under Art.9(1)(a)(iii), development shall not be exempted where it would endanger public safety by reason of traffic hazard or obstruction of road users.
- While the structure could contribute to visual clutter, it is acknowledged that it is retractable.
- While the EV charging point could be considered to be exempt under Class 29A, the PA is not satisfied that the retractable arm extending above the public footpath can be considered as exempted development.
- The works were screened out for AA and EIA.

4.0 Planning History

4.1. Subject site:

An enforcement notice under s.154 is referenced in the S.5 request.

PA ref. 0277/21: Section 5 declaration that replacement of an existing rear garden shed was development and was not exempted development.

PA ref. Web5013/21: Permission granted for demolition and replacement of a garden shed with new access door to rear laneway.

4.2. I have not identified other s.5 determinations by the Board / Commission in relation to development of a similar nature to that the subject of this referral.

5.0 Policy Context

5.1. Dublin City Development Plan 2022 - 2028

The subject lands are zoned Z1 – To protect, provide and improve residential amenities.

The subject property is not a protected structure or located within an ACA. There are no protected views affecting the subject property.

5.2. Natural Heritage Designations

The site is not located within, or adjacent to, any site or area designated for natural heritage purposes.

6.0 The Referral

6.1. Referrer's Case

The referrer makes the following points in their referral of the PA determination:

- The works fall within Class 29A.
- There is no prohibition on the installation of a freestanding charging arm within private residential curtilage.
- The projecting arm projects marginally over the public footway.
- Elements within the private land have maximum dimensions of approx. 2.5m in height, 0.28m in depth and 0.15m in width, and fall within the volume thresholds set out in Class 29A.
- The only element projecting over the public footpath is the charging arm when in use. This does not comprise an enclosed volumetric structure. It is slender with minimal mass. It also falls within the volumetric thresholds.
- S.15 of the Climate Act give rise to statutory obligations on relevant bodies to perform their functions consistent with the Climate Action Plan.
- The High Court judgment in Coolglass identifies tests for deciding bodies in considering granting planning permission, particularly, if discretion or evaluative judgment can be exercised to support the outcome favouring climate goals.
- CAP 25 places duties in local authorities to provide EV charging infrastructure. It mandates expansion of residential charging, assigns delivery responsibility to local authorities and requires that LA's enable, not frustrate EV charging infrastructure.

- The restriction under article 9(1)(A)(iii) relates to endangerment rather than obstruction. Any obstruction must endanger public safety. There is no evidence of same in this instance.
- The charge arm is well above pedestrian headroom, the footpath width is unaffected, there is no realistic hazard for pedestrians and no interaction with vehicular traffic.
- There is no statutory prohibition on charge arm installations. Class 29A exempts EV infrastructure.
- Without a statutory prohibition or evidence of endangerment, EV infrastructure comprises climate consistent works aligned with CAP 25 requirements and should be treated as exempt development.
- Relevant bodies are obliged to give full and effective application to S.15 obligations.
- Any consideration of endangerment would also extend to public EV systems, including lamp-post adapted EV points, neighbourhood chargers, or public approved systems with overhead cables.
- In light of CAP25, which supports and mandates the rollout of such infrastructure, Art 9(1)(A)(iii) cannot be triggered.

Supporting documentation includes:

- Copy of original application to the PA.
- Photographs.
- Manufacturer / supplier specifications.

Maps and dimensioned drawings.

6.2. **Planning Authority Response**

No response to the referral of their declaration was received from the planning authority.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

Section 2 Definitions - “development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly.

“exempted development” has the meaning specified in section 4.

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate,

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1) In this Act, except where the context otherwise requires, “development” means—

(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

(b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).]

Section 4(1) The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures

7.2. Planning and Development Regulations, 2001-2025

Article 3 Interpretation

“hazard” means the intrinsic property of a dangerous substance or physical situation, with a potential for creating damage to human health or the environment;

Article 6(1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would (inter alia)

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(xi) obstruct any public right of way,

Part 1 Schedule 2

Description	Conditions and Limitations
<p>CLASS 29A</p> <p>Development consisting of –</p> <p>(a) the construction of a charging point for electric vehicles that –</p> <p>(i) in the case of a charging point situated on a public road, does not exceed 0.75 cubic metres by volume above ground, and</p> <p>(ii) in all other cases, does not exceed 3.6 cubic metres by volume above ground,</p>	<p>Advertising signage or other advertising material shall not be affixed to, or placed at, a charging point situated on a public road other than for the purpose of –</p> <p>(a) identifying the charging point,</p> <p>(b) providing instructions in relation to fees and to the use of the charging point, or</p>

<p>(b) the adaptation of a street lighting pole for the purposes of the provision of both street lighting and a charging point for electric vehicles,</p> <p>(c) the adaptation of a car parking payment machine situated on a public road for the purpose of both the making of payments for car parking and a charging point for electric vehicles, or</p> <p>(d) the construction of bollards not exceeding –</p> <p>(i) 1.2 metres in height, and</p> <p>(ii) 0.2 cubic metres by volume above ground.</p>	<p>(c) providing the contact details of the operator, manager or owner of the charging point.</p>
--	---

7.3. Roads Act 1993

Section 2 Interpretation:

“road” includes—

- (a) any street, lane, footpath, square, court, alley or passage,
- (b) any bridge, viaduct, underpass, subway, tunnel, overpass, overbridge, flyover, carriageway (whether single or multiple), pavement or footway,
- (c) any weighbridge or other facility, and
- (d) any other structure or thing forming part of the road and—
 - (i) necessary for the safety, convenience or amenity of road users or for the construction, maintenance, operation or management of the road or for the protection of the environment, or
 - (ii) prescribed by the Minister;

8.0 Assessment

The purpose of this referral is not to determine the acceptability or otherwise of the matters raised in terms of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if

so, falls within the scope of exempted development within the meaning of the relevant legislation.

8.1. Is or is not development

8.1.1. The proposal the subject of this referral is described as a freestanding electric vehicle (EV) charging unit together with a retractable charge arm, located wholly within the curtilage of the property, comprising:

- A freestanding post approx. 250cm high;
- A retractable arm with a maximum horizontal extension of approx. 245 cm;
- A charging cable suspended at a minimum height of approx. 24. C above ground;
- A compact charger unit mounted to the upright within the property boundary;

The equipment is described as retracting fully when not in use and that it does not constitute a traffic hazard or obstruction.

8.1.2. The subject matter in this case clearly comprises works within the meaning of section 2 of the 2000 Act, as amended, and therefore comprises development as defined in Section 3 thereof. There is no dispute between the planning authority and the referrer in this regard.

8.2. Is or is not exempted development

8.2.1. The referrer argues that the development is exempt under Class 29A of the 2001 regulations, as amended. Class 29A provides an exemption for the construction of a charging point for electric vehicles, subject only to limitations on the volume of the structure and regarding the attachment of advertising, and subject to construction or adaptation being carried out by a registered electrical contractor.

8.2.2. There is no dispute that the provision of a charging point for electric vehicles comprises part of the subject development or that the overall development falls within the volumetric limitations. I note also that evidence of installation by a registered electrical contractor was provided to the PA and on referral.

8.2.3. The scope of Class 29A is relevant in this case, which class refers only to the construction of a charging point for electric vehicles. The subject development

provides a charging point mounted on a freestanding post. This domestic charge points is small in scale and falls the volumes specified under (a)(ii) of the Class.

- 8.2.4. The development also provides associated or ancillary elements to enable connection to vehicles parked on the public road, in particular a retractable arm and suspended charging cable, extending from the top of the freestanding post across the public footpath to the vehicle. I consider that the scope and extent of the exemption in Class 29A is clear and relates to a vehicle charging point only. It does not refer to any ancillary equipment or infrastructure and therefore does not include associated infrastructure necessary for connecting a vehicle to the charging point.
- 8.2.5. The manufacturers specification provided with the referral indicates that the “Charge Arm” is separate to the charge point / “charge box” and that it allows for the “mounting of many types of charge boxes to the upright of the Charge Arm in a variety of ways.” This, in my view, reinforces the conclusion that the charge point and the associated equipment are separate and not integral components. The reference to volume in Class 29A does not, in my view, provide unlimited scope to provide associated infrastructure or equipment up to that volume.
- 8.2.6. In this instance, a charge point or *Charge Box*, is affixed at approx. mid height to the 2.5m high freestanding post. The height of the post is significantly greater than that required to support / accommodate the charge point itself and extends to 2.5m to facilitate the extension of the retractable arm over the footpath. In this regard, by reason of such height, I consider that the freestanding post would not comprise part of the charge point itself and is not therefore exempt under Class 29A. I do not consider either that the post would be exempt under any other provisions of the regulations.
- 8.2.7. It is my view therefore that the freestanding post approx. 250cm high, retractable arm and suspended charging cable do not comprise an inherent part of the “charging point” and that they do not fall clearly and unambiguously within the terms of Class 29A.

For completeness I have considered the development with regard to s.4(1)(h) of the Planning and Development Act. I conclude that by reason of the height, form and siting of the proposed development adjacent to the front boundary and extending over the footpath when in operation, it would materially affect the external

appearance of the structure so as to render the appearance inconsistent with the character of the structure and of neighbouring structures. I reach this conclusion, notwithstanding that the charging arm would be retracted when not in use.

8.3. S.15 of the Climate Act

- 8.3.1. The default position, as per Section 32 of the Planning and Development Act is that there is a general obligation to obtain permission for development that is not identified as exempted development. This applies notwithstanding the arguments of the referrer. The Act defines “development”, and, along with the Regulations set out provisions for exempted development. If a development does not come within the scope of the Act or among the provisions in the Regulations, then it is not exempted development. The carrying out of development unless clearly and unambiguously exempt, is prohibited unless the subject of a grant of permission.
- 8.3.2. Notwithstanding the argument presented by the referrers, there is no discretion available to the Commission under Section 5 in the application or interpretation of the regulations, including the application of Schedule 2 thereof. Reference is made in the referral to the High Court judgment in the Coolglass case, however, I note that this has been superceded by the judgment of the Supreme Court on appeal.
- 8.3.3. The obligation under S.15 for consistency with the Climate Action Plan are understood, as is the role of the Commission as a relevant body. The planning and development regulations provide for exemptions from the requirement to obtain planning permission for certain development and in this regard, amendments to introduce Class 29A are regarded as being consistent with the Act, while balancing the need for other considerations to be taken into account within the planning application process for development not exempt. Notwithstanding the referrer’s arguments, unlike in considering a planning application, there is no discretion open to the commission in the application of the regulations. In light of the conclusions above, there is therefore no practicable scope to deem the subject development to be exempted development under Class 29A. This does not constitute a restriction or prohibition on development which is aligned with national climate policy, it merely requires it to go through a planning consent process. In this regard, in my view there is no inconsistency with the applicable climate objectives. This conclusion is

supported by the provisions of Circular Letter PL 04/2021 which accompanied the introduction of such exemptions.

8.4. Restrictions on exempted development

- 8.4.1. Notwithstanding my conclusions above, I note that the planning authority declaration refers to Article 9(1)(a)(iii) article of the regulations and concluded that the development would endanger public safety by reason of traffic hazard or obstruction of footpath users and would be contrary to of the forementioned regulations.
- 8.4.2. The restriction relates to development that would endanger public safety by reason of traffic hazard or obstruction of road users. The Planning and Development Act, states that “public road” has the same meaning as in the Roads Act, 1993, and would include the footpath adjoining the subject site. Hazard is defined in Article 3 of the Planning and Development regulations as the intrinsic property of a dangerous substance or physical situation, with a potential for creating damage to human health or the environment.
- 8.4.3. In this context, the restriction under art 9(1)(a)(iii) identifies two scenarios, traffic hazard or obstruction, which by their nature endanger public safety.
- 8.4.4. In this instance, I do not consider that a risk of traffic hazard arises, having regard to the existing pattern of on-street parking outside the subject property. The retractable arm and suspended cable, traverse the public footpath and would not obstruct or impede general access or use thereof by reason of the height above ground of c.2 – 2.43m. There remains an issue with regard to cables and potential for trailing cables to further narrow or restrict movement along this relatively narrow pavement. The avoidance of same would be at least partly dependent on good housekeeping practice by the user. Notwithstanding, I do not consider that a public safety issue or a restriction on an exemption arises in this instance.
- 8.4.5. The proposed retractable arm extending across the public footpath would appear to give rise to issues of consent. I note that the referrer is not a statutory undertaker and the requirement for a s.254 licence for such retractable equipment and cabling remains unclear. This remains outside the remit of this report, however.

9.0 EIA Screening

The subject development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

10.0 AA Screening

I have considered the freestanding electric vehicle (EV) charging unit together with retractable charge arm in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located within the established urban area of Rathmines, and is not located within or adjacent to any European sites. There are no ecological connections to any such sites.

The proposed development comprises a freestanding electric vehicle (EV) charging unit together with a retractable charge arm, located wholly within the curtilage of this residential property. No nature conservation concerns were raised in the course of this declaration or referral.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- The small scale and nature of the subject development.
- The separation from the nearest European sites and lack of connections thereto.
- Taking into account screening determination by planning authority.

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

11.0 Recommendation

11.1. I recommend that the Commission decide that

- The compact charger unit would constitute development and would constitute exempted.
- The freestanding post approx. 250cm high, retractable arm with a maximum horizontal extension of approx. 245 cm and charging cable suspended at a minimum height of approx. 243 cm above ground constitute development and do not constitute exempted development.

11.2. I recommend that the Commission should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether a freestanding electric vehicle (EV) charging unit together with a retractable charge arm, located wholly within the curtilage of the property, described as comprising:

1. A freestanding post approx. 250cm high;
2. A retractable arm with a maximum horizontal extension of approx. 245 cm;
3. A charging cable suspended at a minimum height of approx. 243 cm above ground;
4. A compact charger unit mounted to the upright within the property boundary;

The equipment retracts fully when not in use and does not constitute a traffic hazard or obstruction;

is or is not development and is or is not exempted development

AND WHEREAS Maria Migone requested a declaration on this question from Dublin City Council and the Council issued a declaration dated the 22nd day of January 2026 stating that the matter was development and was not exempted development:

AND WHEREAS Maria Migone referred this declaration for review to An Coimisiún Pleanála on the 4th day of February 2026:

AND WHEREAS An Coimisiún Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (d) Section 3 of the Roads Act 1993, as amended,
- (e) Article 3, article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (f) Parts 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and Class 29A thereof.
- (g) The nature, form and function of the subject matter.

AND WHEREAS An Coimisiún Pleanála has concluded that:

- a) By reason of its nature, function and scale, the proposed compact charger unit would constitute development and would constitute exempted development under Class 29A of Part 1 of Schedule 2.
- b) The freestanding post approximately 250cm high, retractable arm with a maximum horizontal extension of approx. 245cm and

charging cable suspended at a minimum height of approx. 243cm above ground constitute development. Furthermore, these elements are not considered to fall within the scope of a charging point for the purposes of Class 29A of Part 1 of Schedule 2, and do not therefore constitute exempted development.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5(3) of the Planning and Development Act 2000, as amended, hereby decides that;

- i. the proposed compact charger unit would constitute development and would constitute exempted development.**
- ii. The freestanding post approx. 250cm high, retractable arm with a maximum horizontal extension of approx. 245 cm and charging cable suspended at a minimum height of approx. 243 cm above ground constitute development, and do not constitute exempted development.**

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Conor McGrath
ADP

13/04/2026

Form 1 - EIA Pre-Screening

Case Reference	
Proposed Development Summary	
Development Address	
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	<i>The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.</i>

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>State the Class and state the relevant threshold</p>
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>State the Class and state the relevant threshold</p>

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: Conor McGrath **Date:** 13/04/2026