

# ELECTRIC VEHICLE CHARGING POINTS – A QUICK GUIDE

The roll-out of Electric Vehicle Charging Points (EVCPs) across the UK continues to gather speed, with the government's announcement of a ban on the sale of new petrol and diesel cars to take effect from 2030 and on the sale of new hybrid cars from 2035. Changes have also been made to the building regulations regime in 2022, imposing requirements on the provision of EVCPs in new and refurbished buildings, with further regulation expected in 2025 in relation to existing commercial buildings with car parking.

In this briefing we set out an overview of the key issues and questions for property owners to consider in relation to EVCPs.

## WHAT ARE THE LANDLORD'S SPEED AND 'INTER-OPERABILITY' REQUIREMENTS?

Not all chargers work at the same speed. It is important to understand the different capacities of the charging units and their suitability for the anticipated use. Note also that cars will have different connectors, meaning that not all EVCPs can be used by all electric vehicles.

This being the case, landowners may want to consider including obligations in their contractual arrangements with operators to ensure that any EVCPs are compatible with a specified



percentage of electric vehicles on the road in the UK from time to time.

## HOW IS THE ARRANGEMENT GOING TO BE STRUCTURED?

Is the agreement between landowner and EVCP operator a purely commercial arrangement or is it, in fact, a lease? If the operator has exclusive possession of the site, care will need to be taken to ensure that rights of security of tenure under the 1954 Act are not inadvertently being given. The risk here, of course, lies with the landowner and a careful analysis will be required. We are typically seeing operators approach landlords for leases over car parking spaces to be used with EVCPs and they generally prefer to use their own template forms of EVCP lease.

Landlords may also be approached by tenants to grant rights either to use existing EVCPs or to install new EVCPs. Thought should be given to whether any such rights are being granted on an exclusive or non-exclusive basis – which will be of particular importance on a multi-let property where tenants may enjoy rights over existing car parking areas". (delete the words "premises demised to tenants include external areas and may allow for the installation of EVCPs.

Landlords will also want to ensure that, if tenants are engaging directly with operators in relation to EVCPs installed/paid for by the landlord, arrangements can be unwound and control handed back to the landlord at the end of the term.

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### FINANCIALS

#### Covenant Strength

Operator companies may be of limited covenant strength, so consider whether a parent company guarantee is required. Is operator experience more important than financial strength?

#### CapEx

CapEx on EVCPs can be significant. With fast-evolving technology, equipment will require upgrading regularly to avoid obsolescence. Who is going to bear both the initial outlay and ongoing system maintenance and upgrade costs? Who will own the equipment at the end of the agreement? Operators may seek longer term arrangements in order to recoup their initial CapEx, but this means less flexibility for landowners, who will not want to be tied into systems which may become obsolete.

There are specific capital allowances available for business incurred CapEx on EVCPs so specialist input is advisable.

#### Rent

Rental models will often be turnover/revenue linked, usually with a base rent payable. Consider whether such base rent should be subject to review – for example, subject to annual RPI linked increases and/or OMV reviews. There will currently be few comparables in the market for OMV rent review purposes.

#### Charging Costs/Income

Who are going to be the end-users of the EVCPs? Are they intended for public use or is it to be restricted to occupational tenants? If the latter, how will the charging and maintenance costs be recovered? Consider whether the operator should be required to price competitively relative to other operators in the EVCP market.

#### Outgoings and Service Charge

All electricity charges/other outgoings relating to the operation of the EVCPs will need to wash through to the operator. Consider on what basis (if any) the operator should be contributing to any existing service charge regime. If the installation means an increased traffic flow to the site, should the operator bear the associated repair and maintenance costs?

### WHAT TYPE OF SITE IS IT?

#### Existing tenanted scheme

While the installation of EVCPs will provide a long-term benefit, it will be advisable to carry out a review exercise of existing leases to establish whether the installation may interfere with rights that have already been granted to other tenants, such as rights to use/demise of specific parking spaces and capacity issues in respect of electricity supply. There may also be potential disruption if extensive construction works are required and an impact on the service charge regime, for example where the EVCPs are not run off a separate electricity supply.

#### New development

As mentioned above, from June 2022 building regulations now require the provision of at least one EVCP (subject to the number of car parking spaces) in new residential and non-residential developments as well as the provision of 'passive' cabling for future EVCP installations. Please click [here](#) our further comments on these for legislative changes.

Thought should also be given to future-proofing the offering, so that there is flexibility to allow for changes in technology/regulatory requirements. For example, will the utilities and charging infrastructure being installed now be sufficient to accommodate further connections and/or an upgrade in software in the future?

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### WHAT ADDITIONAL INFRASTRUCTURE/WORKS ARE NEEDED?

Consider who is going to carry out any works and the extent of the rights being granted for the installation and then operation of the EVCPs. Are any third party consents required? Issues may include dedicated parking spaces/minimum parking space requirements, access rights, whether a new electricity substation will be needed to provide the necessary capacity, the need for a storage compound during construction and any required environmental remediation works.

From a construction point of view, it will be important to establish who is responsible for design and installation. Consider also the interface with repair and maintenance obligations and the liability for potential losses which may arise as a consequence of defective design and/or workmanship.

### IS PLANNING PERMISSION REQUIRED?

The installation of charging points is 'development' for the purposes of the Town and Country Planning Act 1990, which needs planning permission to be lawful. EVCPs can be authorised under planning control by permitted development rights, but this is subject to numerous conditions and restrictions. Where PD rights do not apply, an application for planning permission will be needed.

#### CONTEXT



35k

The UK has around **35,000 public EV charge points.**



7k

**Charge Point Operators** are installing around 7,000 new charge points each year.



400k

By 2030, the UK is likely to need around **400,000 public charge points**, including around 6,000 high powered charge points.

Detailed data on current private EVCPs in the UK is not available but, to contextualise the commercial private demand for companies with fleets of vehicles, in a survey of 200 (million+ turnover) UK businesses\*, the average planned spend on EV adoption was cited as 4.5% of annual turnover between 2020-2022 which equates to £12 billion in investment. Over a quarter, (27%) of respondents, expected at least a fifth of the vehicles within their fleet to be electric by 2022.

\*Source: Centrica Business Solutions UK firm EV Investment Intentions 2020 survey – the full upshots of that research can be found here. <https://www.centrica.com/media-centre/news/2020/uk-businesses-plan-12bn-ev-drive/>

**“THE TEAM IS MADE UP OF WELL-PLACED AND EXPERIENCED INDIVIDUALS SUPPORTED BY RESPONSIVE PARTNERS WHO ARE CLEARLY KNOWLEDGEABLE AND UP TO SPEED ON THE MATTER AT HAND.”**

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### OPERATION OF THE SITE

#### Agreed Service Levels

Are there agreed KPIs/service levels? For example, operator response times in the event of a fault developing and scheduled maintenance programmes. Where landlords are procuring the provision of EVCPs for tenants, ensure that landlords can 'back-to-back' all service level obligations to the relevant operator.

#### Consequences of Non-Operation

If the electricity supply is interrupted due to an act or default of the landowner, is the base rent payable by an operator to be suspended until the supply is reinstated?

Where there are turnover rent provisions, should there be a notional amount allocated in the accounting process for any period during which the EVCPs are non-operational due to the act or default of the operator? If the EVCPs are unavailable for an extended period, consider the inclusion of termination rights for the landowner.

#### Data Sharing

Landowners may want to have access to the data system for the EVCPs – consider who owns the data system for the chargers and what ability there is to share that data with third parties.



#### System Compatibility and Modernisation

To date, drivers have been required to use multiple apps and memberships across different EVCP networks and while most operators had been working towards using a common system, new regulations enacted in 2023 will require that public EVCPs can be accessed by any user without a separate subscription/membership (as well as imposing a minimum 99% reliability target, clearer pricing structures and customer support requirements).

Landowners will be keen to ensure that the operator complies with these requirements and is kept up to date with advances in EVCP/charging technology over time.

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### **VICTORIA TOWERS**

#### **Partner**

Commercial Real Estate

T: +44 (0)20 7863 8462

M: +44 (0)7775 408 752

E: victoria.towers@forsters.co.uk



### **PETER SELWYN**

#### **Partner**

Commercial Real Estate

T: +44 (0)20 7863 8458

M: +44 (0)7785 467 498

E: peter.selwyn@forsters.co.uk



### **ANDREW MCEWAN**

#### **Senior Associate**

Commercial Real Estate

T: +44 (0)20 7863 8407

M: +44 (0)7557 259 335

E: andrew.mcewan@forsters.co.uk



### **LOUISE IRVINE**

#### **Senior Knowledge Development Lawyer**

Commercial Real Estate

T: +44 (0)20 7399 4778

M: +44 (0)7973 879 479

E: louise.irvine@forsters.co.uk



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