Is FlexEV Council Approved?

So far, none of our customers, in over 70 locations, have reported problems with their council.



However, clause 178 of Highways Act 1980, requires that local authorities give their permission before almost anything is passed over a highway. However, the 300 or so UK local authorities tend to have different policies. Some approve rubber ramp cable covers, others don't. Some approve cable gullies, some don't. So it is unlikely they will all take the same position with FlexEV wands.

FlexEV is not as visually unobtrusive as the gullies supplied by Stormguard and Kerbo Charge, but it has some significant advantages over them:-

- Requires no on-going council commitment to maintain the pavement.
- Much better for people who can't stoop down the ground level to insert the cable into the gully
- Minimal cost (£50)
- Mail order delivery and simple DIY installation.
- Carries the cable over grass, gravel, steps or large changes in ground level.
- Side to side swing accommodates variation in parking position.

Later, we discuss how FlexEV is a good work-around for The Highways Act and other regulations relevant to the situation. Highways Act says any dispute with the council should be determined by a magistrate – but we doubt anyone would have the stamina for that.

There appears to be little reason why FlexEV wands should be considered any more of an obstruction than overhanging garden trees. Indeed FlexEV wands will be deployed for just a few hours at a time, whereas garden trees could remain in place for months or years.



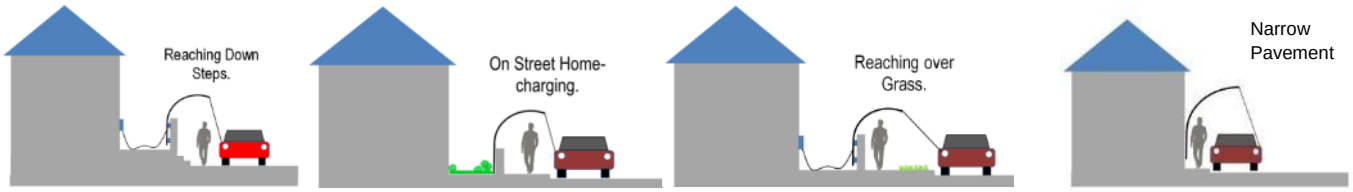


Although councils technically have the power to issue fines for 'obstructing the highway', in practice, if someone complains about overhanging trees, the council usually writes to the owner giving 14 days to cut them back.

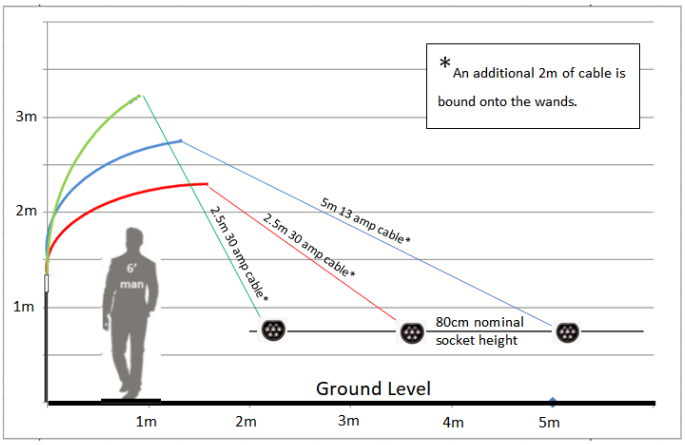
For context, all local authorities ***do*** encourage EV uptake – if only because it is one of the few changes that will improve their urban air quality statistics; Petrol and diesel cars idling at junctions are a major culprit.

All authorities also agree that people who can't afford a house with a driveway should not have to pay more to charge their cars, and they recognise that this can be a major disincentive to buying an EV.

It would be good to know what your council thinks, but many councils charge a fee of around £50 to answer questions about planning permission, - the same price as a FlexEV kit - and are likely to want to know which of the many possible configurations is proposed:-.



So we encourage customers to evaluate the product themselves, knowing that if they do have problems with their council, and the council doesn't accept our assessment of the regulations below, then they can send the wands back for credit – even beyond the eBay 30 day free returns offer – and the customer will have made some electricity cost savings during the evaluation period.



On what grounds might a council object?

- **Requiring Planning Permission?**
    - FlexEV wands are very much a temporary structure, deployed for just a few hours at a time. Only the 1.3metre high base wand is fixed in place, and that is attached to the resident's property (not the council's).
    - Some people make reference to regulations that require new fences adjacent to a highway to be no more than one metre high. This is to ensure visibility for cars joining the highway from driveways, and for pedestrians using the pavement.
        - However, it is unlikely that any vehicle would join the highway where there are FlexEV wands because they are only of use to people without a driveway.
        - If FlexEV needs a new post to attach the base wand, that in itself does not constitute 'a fence', and nor do the wands constitute a material obstruction to visibility.
        - As such, the base wand should not require planning permission. Planning Permission Portal

Continued……

- **Considered an Obstruction?**

    - UK Statutory Instruments, 2002, No 2665, Part V, Regulation 17 requires a minimum height of 5.8 metres for cables above areas with **vehicular** traffic, but FlexEV spans **footways,** not roads.

    - There is no regulation for cables over footways, but **for trees,** some councils have adopted 2.3 - 2.5m as a minimum height clearance over footways. Oxford, West Berks
        - The arc of flexEV wands varies with the weight of cable supported, but broadly complies with that recommendation.
        - The light weight and flexibility of the wands means that any accidental contact is unlikely to cause injury.
    - For context, there are many cases of garden hedges and ornamental trees encroaching on pavements – and some of the trees are owned by the authority itself.





- **Compliance with the Highways Act 1980**

  FlexEV does not **'obstruct free passage'** as described in section 137, and it is not **'likely'** to cause danger as described in section 162.
  However, the 'catch all' section 178 ***does*** apply, (equally to both FlexEV wands and to rubber ramp cable protectors), requiring that permission should be sought from the authority.

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Highways Act 1980

UK Public General Acts > 1980 c. 66 > Part IX > Obstruction of highways and... > Section 137

137 Penalty for wilful obstruction.

(1) If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to [F1 imprisonment for a term not exceeding 51 weeks or] a fine [F2 or both].

[F3 (1A) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (1) to 51 weeks is to be read as a reference to 6 months.

(1B) For the purposes of this section it does not matter whether free passage along the highway in question has already been temporarily restricted or temporarily prohibited (whether by a constable, a traffic authority or otherwise).

(1C) In subsection (1B), "traffic authority" has the same meaning as in the Road Traffic Regulation Act 1984 (see section 121A of that Act).]

154 Cutting or felling etc. trees etc. that overhang or are a danger to roads or footpaths.

(1) Where a hedge, tree or shrub overhangs a highway or any other road or footpath to which the public has access so as to endanger or obstruct the passage of vehicles or pedestrians, or obstructs or interferes with the view of drivers of vehicles or the light from a public lamp, [F1 or overhangs a highway so as to endanger or obstruct the passage of horse-riders,] a competent authority may, by notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is growing, require him within 14 days from the date of service of the notice so to lop or cut it as to remove the cause of the danger, obstruction or interference.

For the purposes of this section the following are competent authorities—

(a) in relation to a highway for which the Minister [F2 or a strategic highways company] is the highway authority and which is in a district or London borough, the [F3 highway authority] and also the council of the district or, as the case may be, borough;

(b) in relation to a highway for which a local highway authority are the highway authority, that authority and also [F4, if the highway is situated in a non-metropolitan district, the council of that district;]

(c) in relation to a road or footpath that is not a highway, the local authority in whose area the road or footpath is situated;

and "hedge, tree or shrub" includes vegetation of any description.

[F5 (1A) In subsection (1)(a) above, any reference to a district includes a reference to a Welsh county or county borough.]

(2) Where it appears to a competent authority for any highway, or for any other road or footpath to which the public has access—

(a) that any hedge, tree or shrub is dead, diseased, damaged or insecurely rooted, and

(b) that by reason of its condition it, or part of it, is likely to cause danger by falling on the highway, road or footpath,

the authority may, by notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is situated, require him within 14 days from the date of service of the notice so to cut or fell it as to remove the likelihood of danger.

(3) A person aggrieved by a requirement under subsection (1) or (2) above may appeal to a magistrates' court.

(4) Subject to any order made on appeal, if a person on whom a notice is served under subsection (1) or (2) above fails to comply with it within the period specified in those subsections, the authority who served the notice may carry out the work required by the notice and recover the expenses reasonably incurred by them in so doing from the person in default.

162 Penalty for placing rope, etc. across highway.

A person who for any purpose places any rope, wire or other apparatus across a highway in such a manner as to be likely to cause danger to persons using the highway is, unless he proves that he had taken all necessary means to give adequate warning of the danger, guilty of an offence and liable to a fine not exceeding [F1 level 3 on the standard scale].

What is meant by 'likely'? A 2020 YouGov study concluded this word implies a 66% probability. There is no way that 6 out of 10 passers-by would be subject to danger by FlexEV.

What is meant by 'danger'? The charging cables are double insulated and generally connected via a Residual Current Circuit Device which automatically cuts the power in the event of any damage to the cable – as used on electric hedge trimmers for example.

Continued……..

178 Restriction on placing rails, beams etc. over highways.

(1) No person shall fix or place any overhead beam, rail, pipe, cable, wire or other similar apparatus over, along or across a highway without the consent of the highway authority for the highway, and the highway authority may attach to their consent such reasonable terms and conditions as they think fit.

(2) Subject to subsection (3) below, a person aggrieved by the refusal of a consent under subsection (1) above, or by any terms or conditions attached to such a consent, may appeal to a magistrates' court.

(3) No appeal lies under subsection (2) above against any term or condition attached by the Minister to a consent given by him under this section if he declares the term or condition to be necessary for the purpose of securing the safety of persons using the highway to which the consent relates or of preventing interference with traffic on it.

(4) If a person contravenes subsection (1) above, or the terms or conditions of any consent given under that subsection, he is guilty of an offence and liable to a fine not exceeding [F1 level 1 on the standard scale]; and if the offence is continued after conviction he is guilty of a further offence and liable to a fine not exceeding £1 for each day on which the offence is so continued.

(5) This section does not apply to any works or apparatus belonging to any statutory undertakers, and for this purpose the Civil Aviation Authority [F2, a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence),] and [F3[F4 a universal service provider in connection with the provision of a universal postal service] and the operator of [F5 an electronic communications code network][F6 or a driver information [F7 network]] are to be deemed to be statutory undertakers].

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