

22nd July 2025

Councillor Margaret Arma Graham  
Traffic Regulation Order Sub Committee (Convener)  
City of Edinburgh Council  
City Chambers  
High Street  
Edinburgh EH1 1YJ

**Formal Objection to Portobello and Joppa Controlled Parking Zone Proposal and Legal Warning Regarding Evidence Submitted to the Traffic Regulation Order Sub-Committee**

Dear Councillor Graham,

We write as a collective of Portobello and Joppa residents and business owners to formally object to the continued progression of the proposed Controlled Parking Zone (CPZ) in our area and to reject the admission of flawed consultation data and survey evidence into the Traffic Regulation Order Sub-Committee process.

We submit that the proposal, and the process upon which it is based, is procedurally unsound, substantively flawed, and vulnerable to legal challenge. Should the Council proceed with the CPZ in its current form, we reserve the right to initiate proceedings for judicial review before the Court of Session, Scotland's supreme civil court, to challenge the legality and rationality of the Council's actions. In any such petition, we would also seek orders for interim interdict to prevent the Council from taking further steps to implement the scheme pending the outcome of the judicial review.

**1. Procedural and Legal Flaws in Consultation**

The consultation exercise conducted in 2021, which underpins the justification for this CPZ, suffers from several significant defects:

- 59% of respondents reported no parking issues in their area
- 57% opposed the CPZ
- 80% of online respondents chose "I don't like this" for the CPZ option

Despite these clear findings, the Council has proceeded to the statutory TRO phase, suggesting a predetermined outcome rather than a genuine engagement with public opinion.

Crucially, the consultation was conducted during the COVID-19 pandemic, a period of radically altered transport and parking behaviour, and was outsourced to Marston Holdings without any published independent assessment of question neutrality or bias. In legal terms, this raises concerns under administrative law and the principle of procedural fairness (natural justice), both of which are well recognised in Scottish public law.

Furthermore, the Council failed to consult Joppa residents at all, despite extending the CPZ boundary to include the area. This omission may breach the statutory duties to consult under the Road Traffic Regulation Act 1984, as applied in Scotland by the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999, particularly where affected communities are denied an opportunity to respond to proposals impacting them directly.

## Lack of Formal Minutes from Public Meeting:

It is deeply regrettable that despite a well-attended public meeting held in May 2025 at Portobello Town Hall - where over 500 residents and local business owners gathered to express their views on the proposed Controlled Parking Zone - no formal minutes were taken to document the proceedings. This meeting, attended by Transport Convener Councillor Stephen Jenkinson and several Council officers, provided a clear platform for the community to voice widespread and vocal opposition to the CPZ proposal. The failure to record and disseminate these critical views not only undermines the purpose of public engagement but demonstrates a troubling disregard for local democratic participation. Calling on residents to take time from their lives to attend such an important meeting, only for their objections to go unrecorded, is both disrespectful and contrary to the principles of transparency and accountability that should underpin all Council decision-making processes. It raises serious questions about whether resident input is being genuinely considered or merely treated as a procedural formality.

## 2. Flawed and Non-Representative Evidence

We reject the legitimacy of parking surveys conducted in June 2025 as forming a credible evidence base. These surveys were undertaken during a period of major roadworks scheduled to last until at least October 2025. Temporary changes - such as altered traffic flows, road closures, suspended parking bays, and extended footways - have already led to significant and artificial displacement of parking activity. The data captured under such abnormal and unrepresentative conditions cannot reliably inform long-term regulatory decisions.

Furthermore, this survey, like the one conducted in 2019, took place during the peak summer months, when Portobello experiences a marked influx of visitors, beachgoers, and tourist traffic. This seasonal surge creates short-term parking pressures that do not reflect the area's typical parking patterns for the majority of the year. Using such data as the basis for permanent regulatory changes affecting residents and businesses year-round is methodologically flawed and risks introducing disproportionate restrictions based on an exceptional rather than representative snapshot. For an area situated adjacent to one of Edinburgh's most popular beaches, the timing of these surveys is critically important - and in this case, profoundly misleading.

In legal terms, the admission of such data could be subject to judicial review on the grounds that material considerations were improperly assessed or that irrelevant factors were taken into account, breaching the Wednesbury reasonableness test as applied by Scottish courts in the context of local authority decision-making.

## 3. Existing Alternatives Ignored

The Council has already implemented a number of targeted interventions to address issues raised in the original consultation:

- Installation of double yellow lines at known pinch points (e.g. Marlborough Street, Regent Street)
- City-wide enforcement, since January 2024, of new powers banning pavement parking, double parking, and obstruction at dropped kerbs

These solutions directly target the main causes of concern - illegal parking and obstruction - without introducing the broad, restrictive, and commercially harmful effects of a CPZ. The failure to consider these interventions as viable alternatives may constitute a failure to explore less restrictive means of achieving the Council's objectives, which is another recognised ground for judicial review.

## 4. Economic Harm to Local Businesses and Traders

Local businesses - particularly those located on or near Portobello High Street - are united in their opposition to these proposals. Evidence from other Edinburgh wards, such as Leith, demonstrates that Controlled Parking Zones (CPZs) can reduce footfall, disrupt delivery schedules, and deter both local and visitor spending. These effects are especially harmful in mixed residential-retail areas like this one, where economic vitality is closely tied to ease of access.

Further, the current proposals include imposing seven-day-a-week parking restrictions at the edge of the city, in an area centred around Portobello High Street - a location that has, in recent years, seen significant regeneration, with new shops, bars, restaurants, and services opening and ongoing private investment. The imposition of continuous parking controls in this area will have the effect of undermining these gains by damaging trade, not just on weekdays but throughout the weekend. Crucially, no other area on the outer edge of Edinburgh has been subjected to such a blanket and draconian set of restrictions, making the proposal both exceptional and unjustified in its scope.

Economic harm to small businesses is a relevant material consideration in both planning and transport policy. Where such impacts are ignored or underestimated, the Council's decision risks being held irrational or disproportionate in law.

## 5. Legal Risk and Cost to the Council

Should this matter proceed to court, we intend to initiate a petition for judicial review in the Court of Session. We will argue that the Council has:

- Acted unreasonably in relying on biased or unrepresentative data
- Failed in its duty to consult affected parties, particularly in Joppa
- Ignored material considerations and relied on irrelevant or misleading ones
- Violated procedural fairness and its own consultation code

While legal precedent in Scotland regarding CPZ challenges is limited, persuasive authority from other UK courts has been recognised in Scottish proceedings. We cite:

- **Attfield v Barnet LBC [2013] EWHC 2089 (Admin):** The English High Court ruled that CPZ charges used for revenue generation were unlawful. The council was ordered to refund residents and pay substantial costs.
- **West Dulwich LTN judicial review (2025):** The court quashed a traffic scheme due to the council's failure to meaningfully consider resident feedback. This marks the first LTN reversal based on inadequate consultation and sets a persuasive precedent.
- **R (Davidson) v Hammersmith & Fulham (2017):** This case confirmed that consultation must be fair, timely, and proportionate. A flawed consultation led to the withdrawal of the scheme and cost penalties against the authority.

Although not binding in Scotland, these cases are highly relevant and may be considered persuasive by the Court of Session, especially where similar principles of administrative fairness, proportionality, and public interest apply. Councils found to have acted unlawfully in these matters have faced significant costs, including full legal expenses and reputational damage.

## 6. Our Demands

We therefore call upon the City of Edinburgh Council to:

1. Immediately reject the use of the 2021 informal consultation and 2025 roadwork-affected surveys as valid evidence in the CPZ proposal
2. Suspend further progression of the CPZ and TRO until an independent, post-roadwork, and statistically valid review is completed

3. Conduct a lawfully compliant, unbiased, and inclusive consultation, particularly including Joppa residents who have been wholly excluded from the process
4. Commit to publicly disclosing the full financial, legal, and traffic modelling assessments used to justify this scheme

We remain committed to engaging constructively with the Council; however, we expressly reserve all legal rights and remedies available to us. Should the Council persist in advancing the CPZ proposals for Portobello and part of Joppa in its current form, we will pursue judicial review before the Court of Session. In doing so, we will seek not only to have the relevant Traffic Regulation Order (TRO) quashed, but also to recover our judicial expenses and, where appropriate, to seek damages arising from the Council's actions.

The Council is respectfully urged to give serious consideration to the legal, financial, and reputational risks associated with progressing a scheme that is, in our view, procedurally flawed, substantively unsound, and potentially unlawful. It must ask itself whether it can justify the consequences of continuing with a proposal that lacks public support and may not withstand legal scrutiny.

In the event that court proceedings prove necessary, this letter will be founded upon in any motion for expenses.

We hereby request a substantive response within 21 days of receipt of this correspondence. Failing which, we will consider proceeding without further notice.

Yours faithfully,

|                                    |                                    |
|------------------------------------|------------------------------------|
| Nikki Middleton (EH15 2HX)         | Ranald Leask (EH15 2HY)            |
| Nicol J. Craig (EH15 2EZ)          | Ania Lewandowska-Craig (EH15 2EZ)  |
| Cahoots Gift Shop (EH15 2AU)       | Velvet Easel Gallery (EH15 2AS)    |
| Harry's Gourmet Treats (EH15 2AU)  | TA Harris & Son (EH15 2BL)         |
| Two Sisters Gift Shop (EH15 2AU)   | Go Go Beets Cafe (EH15 1EU)        |
| The Fine Wine Company (EH15 1AR)   | Mouse Hole Delicatessen (EH15 1AF) |
| Aemelia Pasta Shop (EH15 1EX)      | Good Karma (EH15 1AN)              |
| Rising Tide Cafe (EH15 2DA)        | Deli 194 (EH15 1EX)                |
| Ellie Barron Hair Salon (EH15 1AN) | Friday Street Antiques (EH15 2AS)  |
| Joppa Newsagents (EH15 2EZ)        | Popeye's Sandwich Bar (EH15 1AH)   |
| Nobles Amusements (EH15 1HJ)       | Crumbs of Portobello (EH15 1HJ)    |

On behalf of Portobello & Joppa Residents and Businesses Against CPZ, and the other members of the Portobello Traders Association which collectively represents more than 40 businesses.

\*A petition with 1221 signatures rejecting the Council's proposals is available here:

<https://www.change.org/p/stop-parking-fees-for-portobello-residents>

Cc: Chris Murray MP, Ash Regan MSP, Sue Webber MSP, Alison Johnstone MSP, Miles Briggs MSP, Jeremy Balfour MSP, Sarah Boyack MSP, Foysol Choudhury MSP, Lorna Slater MSP

**Ward Councillors:** Councillor Jane Meagher, Councillor Alys Mumford, Councillor Kate Campbell, Councillor Tim Jones

**Traffic Regulation Order Sub-Committee:** Councillor Margaret Arma Graham, Councillor Phil Doggart, Councillor Fiona Glasgow, Councillor Joan Griffiths, Councillor Kevin Lang, Councillor Kayleigh Kinross-O'Neill, Councillor Hal Osler, Councillor Norman Work

**Council Officials:** [controlledparkingzone@edinburgh.gov.uk](mailto:controlledparkingzone@edinburgh.gov.uk), Paul Lawrence, Chief Executive, Paul Bathgate, Senior Transport Team Leader - Parking Controls, Gavin Graham, Parking and Traffic Regulation Manager, Dave Sinclair, Interim Head of Network Management & Enforcement, Gavin Brown, Interim Service Director – Operational Services of Place