

FORMAL LETTER sent by email

To: Leith Community Council

Email: contact@leithcommunitycouncil.com

Date: 1st December 2025

Re: Urgent Request for Leith Community Council Intervention — Sudden Closure of St Mark's Public Footpath and Unsafe / Non-Compliant Diversion Route

Dear Members of Leith Community Council,

I write in my capacity as a local resident and as the appointed, independent and professional construction, planning, and infrastructure advisor to Mr Yossi Mazon, the proprietor of the Police Box café at Powderhall. I do so consider the significant and growing public concern arising from the sudden, improperly consulted, closure of St Mark's Public Footpath on 17 November 2025, and the subsequent imposition of a dangerous and inaccessible diversion route created by the Council's contractor, CCG Construction as overseen by Edinburgh City Council.

I respectfully request that Leith Community Council exercise its democratic mandate to protect the rights, safety, and access of local residents, disabled pedestrians, and the many small businesses who rely on this important public route.

1. Relevant Background — A Sudden Closure, Without Consultation, Based on a Highly Questionable “Health & Safety” Justification

On the morning of 17 November 2025, local residents awoke to find St Mark's Path — a well-used, long-established public footpath linking Warriston Road, Powderhall, Broughton Road, and St Mark's Park — closed without prior public consultation.

The statutory notice erected at the gate (photograph attached) cites the *Road Traffic Regulation Act 1984, s.14*, on grounds of “Health and Safety”. Yet no health and safety risk existed prior to the closure. The footpath was open, safe, and used daily by:

- wheelchair users
- visually impaired residents
- school children and nursery groups
- elderly residents
- commuters and dog walkers
- local customers of Mr Mazon’s café

I feel compelled and duty-bound by my numerous Chartered professional affiliations to point out the irony — and, indeed, the public alarm — arises because the Council’s use of “Health & Safety” powers has resulted in a diversion route that is itself profoundly unsafe, non-accessible, and non-compliant with statutory duties.

This concern is now widely shared, including in the December 2025 edition of *The Spurtle*, which reports strong community disquiet over the closure and the way it was imposed.

2. Evidence of Legal, Safety, Accessibility, and Procedural Failures

2.1. Independent Disabled-Access Assessment (Edinburgh Access Panel)

Following community complaints, the Chair of Edinburgh Access Panel (Mr Robin Wickes) representing a body recognised by the City of Edinburgh Council as a formal statutory consultee on disabled access, visited the site and issued a written professional assessment on 27 November.

Their findings are unequivocal:

- The diversion route is unsafe for disabled pedestrians
- The gradient is too steep for wheelchair users and risks leaving them stranded
- The surface is broken and hazardous for ambulant disabled persons
- Cyclists “freewheeling at speed” create collision risks
- Wayfinding signage is inadequate
- There is no winter maintenance plan

The Chair concludes:

“The lane down from Broughton Road to Dunedin Street is unsafe for many disabled pedestrians... The gradient is too steep... the surface unsuitable... dangerous for ambulant

disabled pedestrians and vision-impaired pedestrians... I would recommend signage discouraging disabled people from attempting the diversion route.”

This is an authoritative, professional finding.

It substantiates that the alternative route is not accessible, not safe, and not legally adequate. A copy of Mr Wicke’s letter is attached for ease of reference, noting his willingness for this to be shared and copied.

2.2. Failures in statutory process and duty of care

(a) Lack of consultation

Temporary stopping-up of a public right of passage requires lawful notice, consultation, and professional accessibility assessment. None, to our knowledge were properly undertaken on writing or consulted upon prior to closure.

(b) Discriminatory impact under the Equality Act 2010

The diversion places disabled persons at a substantial disadvantage, breaching the Council’s Public Sector Equality Duty and reasonable-adjustments obligations.

(c) Breach of CDM Regulations 2015

Construction works affecting public routes must ensure safe pedestrian passage for all users, including vulnerable users. CCG’s diversion route fails this basic statutory requirement.

(d) Probable breach of Roads (Scotland) Act 1984

A long-standing public right of way cannot be obstructed without due legal process and without providing a safe alternative.

(e) Economic and social harm

Mr Mazon’s café has experienced an immediate and measurable reduction in footfall — representing a direct and special economic loss distinct from general inconvenience to the public.

3. RESPECTFUL SUGGESTION — What the Leith Community Council Can Do Now

With no doubt as your members will be aware, Leith Community Council has *both the mandate and the procedural mechanisms* to act immediately in defence of local residents, disabled persons, and small businesses.

I respectfully request on behalf of those affected as noted above, that you:

(1) Table an emergency motion calling for the immediate suspension of construction works at Powderhall until:

- St Mark's Path is fully reinstated, safe, and open; or
- CCG provides an accessible, professionally verified alternative route that meets statutory standards, and before doing so at its own expense, and not to the current contract (on whatever basis or form of contract) consults properly on such matters as members of a Considerate Contractor's Scheme should, as the minimum standard required.

(2) Demand full disclosure from the City of Edinburgh Council and from CCG of:

- the risk assessments,
- accessibility assessments,
- legal basis for closure,
- contract clauses permitting closure,
- and any CDM compliance checks.

(3) Formally notify the Health & Safety Executive (HSE Scotland)

The condition of the diversion route raises issues of potential non-compliance with statutory safety duties.

HSE has the power to:

- issue Improvement Notices
- issue Prohibition Notices
- require reinstatement of the original safe route
- require contractor compliance prior to further works.

(4) Promote a Local Petition

As this is not eligible for a Scottish Parliament Petition, a Local Petition under LCC's authority is the most effective and democratic route.

A draft petition is provided below (Part 3).

4. Anticipated Beneficial Community Outcome: What Responsible Civic Action Would Achieve

If the Community Council adopts immediate action, I would anticipate the outcome will be:

- Safe, accessible movement for disabled residents
- Restoration of a vital link between Powderhall, Warriston, Broughton, schools, nurseries, and St Mark's Park
- Removal of risks posed by the current unsafe route
- Demonstration of civic leadership in defending the rights of residents
- Assurance that contractors working on public land meet statutory obligations, at no extra cost to citizens
- Transparency, accountability, and community confidence restored

In contrast, inaction (within which I would include statements as currently circulating along the lines of setting up electronic "proposed Powderhall Stakeholder Groups" or "meetings" or "CCG are looking into alternative routes" but without programmes or confirm dates or confirmation that no extra costs will be incurred whilst St Marks Path remains closed) will prolong:

- safety hazards,
- disability discrimination,
- lost footfall to local businesses,
- and growing public distrust.

5. RESPECTFUL REQUEST FOR IMMEDIATE ACTION — Formal Request for Intervention and Petition Launch

I therefore respectfully and formally request that Leith Community Council:

(1) Adopt an emergency resolution requiring reinstatement of St Mark's Path pending provision of a fully compliant alternative route.

**** (2) Submit an immediate enquiry to the City of Edinburgh Council demanding disclosure of all legal, safety, and access assessments related to the closure.**

**** (3) Notify and engage HSE Scotland regarding the unsafe diversion.**

(4) Launch a Local Petition (draft supplied separately) calling for:

- suspension of works,
 - immediate reopening of the path,
 - contractor-funded remedial works,
 - full consultation before any future closure.
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Closing

I trust that Leith Community Council will appreciate the seriousness of this matter and the urgent need for decisive, community-protective action. I remain available to provide any further technical or statutory clarification required.

Yours sincerely,

Eur Ing Dennis J. O’Keeffe

C.Eng FRICS FICE FCIOB

Independent Construction & Infrastructure Advisor

Ó Cuív & Company, Edinburgh

Cc:

Ben MacPherson MSP

David Robertson, Chief Executive, City of Edinburgh Council

Cllr Jack Caldwell

Robin Wickes, Edinburgh Access Panel

Mr Yossi Mazon

Edinburgh Evening News

The Spurtle

Attached:

Photographs of

- December Spurtle Headlines
- Statutory Notice currently provided as grounds for sudden closure
- Photographs (various) of Alternative Footpath

Appendix A STATUTORY & CASE-LAW SUMMARY (appended to email)

Re: Closure of St Mark’s Public Footpath and the Deficient Alternative Diversion**

This Appendix summarises key statutory duties, regulations, and case law under Scots law relevant to the sudden closure of St Mark's Path and the provision of an unsafe and inaccessible alternative pedestrian route. It is provided to assist Leith Community Council in assessing the legality, procedural adequacy, and public-safety implications of the actions undertaken by the City of Edinburgh Council and its contractor, CCG Construction.

Appendix B DRAFT LOCAL PETITION: St Mark's Public Footpath: Immediate Reinstatement and Safety Action **(appended to email)**

Appendix C Draft Letter to Health & Safety Executive **(appended to email)**