



Underpinning & Subsidence Repair Techniques / Engineered Foundation Solutions / Retrofit Basement Construction

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## Hearing Statement from the Association of Specialist Underpinning Contractors (ASUC)

### Introduction

1. ASUC is a highly respected trade association established in 1992. As section 2 of our R19 representation sets out, we expect, and promote, the highest of standards from our members and are fully cognisant of the potential for basements to have negative impacts.
2. Our motivation in objecting to the policy is to ensure that draft Policy D6 is amended so as to promote “good” basement development without unnecessarily imposing generalised restrictions such as those proposed. We ask the Inspector to note the widespread support for our R19 representation from those working in the sector, and to accept our evidence that the proposed policy would, contrary to the Council’s intentions, have a freezing effect with profoundly negative economic consequences and potentially harmful environmental consequences too.
3. In this Statement we address Matter 7, Questions 17-19, and (more briefly) Matter 11.1 on viability. Our essential argument is that elements of proposed policy D6 are not sound. We note the following:-
  - (1) the changes from the adopted Local Plan (2017) restrict basement development significantly without justification. On the contrary, the Council’s position is that the 2017 policy has been “generally effective”; and
  - (2) these changes appear to be founded on incorrect and entirely unsubstantiated concerns about the consequences of basement development for the natural environment; and
  - (3) D6 is not positively prepared, and not consistent with the NPPF’s presumption in favour of sustainable development.
4. We have set out our in-principle objections in some detail and with supporting evidence in our R19 representation. While we have concerns about existing planning policies, we seek only to ensure that the damaging and unjustified further restrictions proposed are not added to those in the 2017 Plan<sup>1</sup>. For this reason we seek only those modifications to the policy set out at §36 of our R19 representation<sup>2</sup>.
5. Our proposed modifications would retain the 2017 Plan’s policy limit on the size of a basement to 50% of any garden, insist on an acceptable landscaping and planting plan, and ensure that any lightwells avoid unacceptable harm to neighbours or the street scene.

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<sup>1</sup> See §44 of our Regulation 19 submission [SD38 p105].

<sup>2</sup> SD38 page 102.




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6. Since we submitted our R19 representation, the Council has prepared and published a Basements Topic Paper dated October 2025 [TP09] to which we respond in this Statement.

**The proposed policy D6**

7. It is described as a non-strategic policy, and is located within the Design Chapter of the draft Plan at p477 [SD02]. It consists of six sections, A-F, and applies to all subterranean development<sup>3</sup>.
8. Sections A, B, E, and F appear designed to protect the character and appearance of the area and we do not object to their objectives.
- (1) Section A requires an applicant to demonstrate that the proposal would not cause harm to a range of important interests and we suggest minor drafting improvements at §38 of our Regulation 19 statement [SD38 p103] to which we have seen no response from the Council;
  - (2) Section B requires an assessment of the proposal's impact on drainage, flooding, groundwater conditions and structural stability in the form of a Basement Impact Assessment and Construction Plan where appropriate. We support these requirements;
  - (3) Section E requires an applicant to demonstrate the acceptability of the proposal against eight important planning considerations which we generally support;
  - (4) Section F addresses the risk of flooding; the need for a Construction Management Plan; and the possibility that neighbours incur expenses to which we do not object.
9. We have set out our objections to sections C-D in our R19 representation and have made it clear that undertaking subterranean development in close proximity to residents and other uses requires care and skill if unacceptable impacts are to be avoided. We object to the policy, not because it takes the risks of such development seriously, but because it imposes an unjustified blanket restriction on the lateral extent of development that would apply even if the proposal would meet all the legitimate requirements of planning policy and promote sustainable development.

**The Council's Evidence**

10. So far as we can tell, the Council relies principally on the following evidence:-

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<sup>3</sup> SD02 Submission Draft Plan at 12.112 page 446




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- (1) EB36 – the Basements Evidence Report of 2016
  - (2) EB37-42 – the Geological, Hydrogeological, and Hydrological Study of 2010
  - (3) EB19 – the Embodied Carbon impact of basement extensions 2024
  - (4) TP09 – the Basements Topic Paper of October 2025, and references within it to the Neighbourhood Plans of Hampstead, Redington Frogna, and Highgate. The value they attribute to biodiversity and gardens appears to be the reason for restricting basements to the footprint of the host building [TP09 §6.8: use of the word “therefore”].
11. We do not understand how evidence prepared prior to 2017, when the Local Plan was adopted (the first two documents in the list above), can be used to justify a change to the policy, which the Council itself states is working well<sup>4</sup>.
  12. The issue of embodied carbon, to which the third document speaks, is addressed within our Regulation 19 submission at §153-158 [SD38 p129-130]. We do not address it in detail here as, despite the frequent references to it, we understand it forms no part of the rationale for the additional restrictions proposed in the draft policy.
- The Basements Topic Paper [TP09]
13. This 13 page document is made up of 7 sections.
  14. Section 1 states that it provides further background and information on the Council’s proposed approach.
  15. Section 2 is headed “Background” and repeats the Council’s previous statements that their policies have generally operated successfully [§2.2<sup>5</sup>] and this is likely to be so, given that the Council has granted 270 planning consents but identifies not a single problem case arising from those consents.
  16. Section 3 provides the policy context, referring to the NPPF and London Plan 2021.
  17. In our view, the NPPF provides no support for the following aspects of the Council’s draft policy D6:-
    - (1) D6 treats underground development differently (e.g. by imposing blanket restrictions on lateral extent) to overground development, instead of controlling the scale of development by assessing its impact on the three mutually independent objectives of the planning system; and

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<sup>4</sup> See our Regulation 19 Statement at §41-42 [SD38 p104].

<sup>5</sup> And this is repeated at §6.3 of the Paper.




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- (2) D6 and the Council’s justification appear to ignore the economic impact on an important employment sector. There is, simply, no sign that the Council appreciates the mutual interdependence of the three aspects of sustainable development which are to be pursued together.
18. The references in the Topic Paper to Chapter 14 and §75 of the NPPF do not affect the objection we raise since D6 imposes appropriate requirements in relation to carbon to which we do not object, and good basement development under a garden is, by definition, not development of that garden<sup>6</sup>.
19. The London Plan 2021 provides no support for the restrictive policies within draft policy D6 whereas, as we say at §32 of our Regulation 19 representation [**SD38** p100], its policy D10 is consistent with the criteria based policy we support.
20. It is notable that the GLA adopted D10 in 2021 without following the recommendation within Camden Council’s representation on the draft London Plan.
21. Section 4, “Local Context” is purely factual.
22. Section 5, “Evidence”, begins with the claim that the evidence base is “adequate, proportionate, relevant and up to date in line with the NPPF” and it goes on to set out the main sources of evidence. §5.3 refers generally to “representations made during the draft Local Plan preparation process and concerning individual planning applications, [from which] it is evident that basement construction impacts continue to be a concern for local residents and amenity organisations.”
23. Concerns are of course relevant, but a statement of this kind is surely wholly inadequate to justify the wholesale restrictions proposed. The point isn’t whether basement development is complex, difficult, and a source of concern to those living next door. The point is how best to ensure that the development delivers benefits, avoids harms, and addresses concerns.
24. The Council’s proposed approach is set out at section 6, and begins with a repeat of its view “that adopted policy A5 is operating effectively.” [**TP09** §6.3].
25. When it comes to the blanket restrictions on lateral extent (banning basements extending beyond the footprint of the host building), reliance is placed on the value provided by biodiversity and gardens and its significance for policies in the three NDPs [**TP09** §6.8]. For this reason we have looked carefully at those NDPs and mention the following concerns.
26. We find no evidence to support the claim implied by §6.14 of the Topic Paper where it states “retaining the existing approach in Policy A5 would result in further cumulative losses of mature gardens resulting from the construction process.” On this point we are not claiming the Council’s evidence is weak. We are claiming there is no evidence at all. No evidence of

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<sup>6</sup> In addition please see our Regulation 19 Statement at §26-30 [SD38 p100]




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the “loss” of a single mature garden or part of a single mature garden since the 2017 Plan was adopted and the 270 permissions referred to were granted under policy A5 which, according to the Council, is working well.

27. Further, the Redlington Froggnal NDP made in 2021 contains a serious factual error in relation to the ability of trees to thrive in relatively shallow soils. Please see our Regulation 19 Statement [SD38] and related evidence at its Appendix A<sup>7</sup> and the Landmark Trees letter dated 2 March 2026 [Appendix to this Statement<sup>8</sup>]. This is the best evidence available and no attempt has been made by the Council to contradict it with an alternative expert opinion.
28. However, TP09 relies on the NDP to infer that there has been a loss of natural soft-surfaced garden due to garden basement development when this is not the case at all. The NDP’s analysis illustrates a loss of natural soft-surfaced garden over the period 1948 to 2018 – hardly the period of garden basement development especially under Policy A5 which was adopted in 2017<sup>9</sup>. The section of the NDP referred to states as follows:-

A substantial cumulative area of natural soft-surfaced garden has been lost since 1948. The Forum made attempts to quantify the loss, but these proved futile, as infra-red technology is unable to detect the surface type where obscured by vegetation, while Ordnance Survey maps exclude extensions and new buildings carried out under permitted development rights (PD) and are unable to distinguish between different surface types within “gardens”. Notwithstanding these limitations, Ordnance Survey has been able to demonstrate that:

29. The Topic Paper also refers to the Hampstead NDP which was made in 2025 [§6.12-13] and records the concerns of residents as expressed in surveys. The only survey that we are aware of is the same survey that underpins the 2017 Policy – this is the survey listed in the Evidence Base of that NDP. No other survey is identified. As we have said above, that survey cannot be used to justify a change in policy from that adopted in 2017.
30. We are not sure what the Highgate NDP is said to add to the case for the proposed policy.
31. The essence of the Council’s approach in section 6 is set out at §6.16 which states that a greater emphasis should be placed on maintaining gardens “in their existing intact state”.
32. No mention is made of the fact that many gardens are not currently in an “intact” state – if by that is meant that the garden is a green haven for wildlife; nor of the fact that the development of a basement is an opportunity to improve the natural environment of the

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<sup>7</sup> Landmark Trees letter to Simon Haslam of Basement Force dated 18 March 2014 [SD40 page 146].

<sup>8</sup> We are aware of §7.6 the Inspector’s Examination Guidance which says that no further documentation should be submitted, but we are hopeful an exception can be made for this letter since TP09 was published in October 2025, well after our R19 representation. We have therefore not had the opportunity to respond to the new information provided.

<sup>9</sup> TP09 at §6.16 referring to section 4.9 of the NDP and claiming that it suggests there has been “a serious and unsustainable rate of loss (equivalent to one in six gardens) at a time of growing surface water flood risk and climate change.”.




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garden since a landscaping and biodiversity strategy may be required by condition. And no consideration appears to have been given to the implications of the changes for the delivery of sustainable development. There is in the Council's evidence no assessment of the impact of the policy on viability, nor does it feature in the Sustainability Appraisal of the Plan.

### **ASUC evidence**

33. Our Regulation 19 representation refers to several publicly available documents and provided five Appendices:-
34. Appendix A: the Landmark Trees report dated 18 March 2014 [**SD40** pp146-157]. This is expert evidence of the theoretical and practical feasibility of providing a thriving garden with planting for mature trees in the 1 metre of soil required on top of a garden basement. It was submitted to the Royal Borough of Kensington and Chelsea and has not, so far as we are aware, been contradicted by any other expert.
35. Appendix B is GS Ecology's 2014 comments on the Royal Borough of Kensington and Chelsea's draft basements policy [**SD40** pp143-145] and makes the obvious point that not all gardens have ecological value: many are paved. A landscaping scheme can result in a greener, more biodiverse, environment.
36. Appendix C is the 2016 ASUC Guidelines on safe and efficient basement construction directly below or near to existing structures [**SD39** pp49-95 and **SD40** pp1-142]. The Contents page at p53 of SD39 illustrates the depth and range of the guidance available to ASUC members. As we have repeatedly said, for as long as construction of basements is a profitable business, organisations like us can help ensure that it is undertaken in a considerate and technically competent way. The arbitrary restrictions on scale introduced in D6 are likely to have a chilling effect on the sector, making it more difficult to encourage investment in high quality personnel and equipment.
37. Appendix D is the 2013 Ove Arup & Partners Ltd Hydrologic review of a draft RBKC basements policy [**SD39** pp14-48]. While this addresses the proposal to limit the lateral extent of a basement to 50% of the garden, (which was adopted, as it was by Camden in 2017) the in principle arguments are similar. This document was submitted to the Royal Borough of Kensington and Chelsea and has not, so far as we are aware, been contradicted by any other expert.
38. Appendix E is the evidence to demonstrate that trees of any size grow healthily to full size on top of garden basements which we (ASUC) prepared and is dated 22 June 2025 [**SD39** pp1-13]. It provides specific examples of basement developments which have resulted in the successful establishment of trees. The evidence is not, so far as we are aware, in dispute.
39. In addition we rely on the Landmark Trees letter of 5 March 2026 (appended).



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### The Inspector's Matters and Issues

40. In the above context we address Matter 7 (Design and Amenity, Tall Buildings and the Historic Environment), Questions 17-19, and, more briefly, Matter 11 (Viability) Question 1 on viability.

*M7 Q17: Is D6 consistent with national policy and in general conformity with the London Plan?*

41. D6 is not consistent with national policy for the following reasons.

- (1) It is not positively prepared, does not serve a clear purpose, and is not shaped by effective engagement with (amongst others) businesses [NPPF §16]: it is arbitrary in its restriction; its stated purpose is not served by the policy; and the business community has been all but ignored in the consultation process.
- (2) It is not sound since it is not justified, or effective, for the reasons stated [NPPF §36].
- (3) While the background documents pay lipservice to the role good basement development can play in the delivery of sustainable development, it is downplayed and appears to have played no part in the formation of the policy itself.

42. While we would prefer to leave the question of general conformity to the Inspector and others, we note that D6 does not take the approach required by D10 of the London Plan and its blanket restriction on the lateral extent of basement development is not consistent with it.

*M7 Q18: Are the requirements of Policy D6 justified?*

43. The policy applies to all development underground, to basements large and small, and whether or not the site already contains such development, and however close or distant are the nearest sensitive uses.

44. Some of the policy's requirements are justified, sensible, and supported by us (see §9-10 above). However, the total ban on basements under gardens, and the arbitrary requirement to set the basement (which is underground) back from neighbouring property boundaries where a new access or lightwell is being created are not justified.

45. There is, simply, no evidence that – despite the rigours of the other policy criteria – such development causes unacceptable harm. Then there is the statement that exemptions “may” be made on large comprehensively planned sites, opening the door a chink, but introducing uncertainty and the risk of unfair and arbitrary decision making.

46. In those circumstances, the requirements of Policy D6 are not justified and will not be effective as a means to the stated objective.

*M7 Q19: Are the requirements of policies A1-A4 justified and effective*



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47. We have not objected to these policies and we support their objectives. They would apply to basement development in the Borough.

*M11 Q1: How has the Council ensured that its viability evidence is up to date in line with national policy and guidance and in what ways has the evidence shaped the policies of the Plan?*

48. The restrictions on basement development appear not to have played a part in any viability assessment, nor in the Sustainability Appraisal of the draft Plan. We would welcome confirmation of this from the Council and, if we are right about it, we believe reinforces the strength of our case on Policy D6. Viability issues have been entirely absent from the Council's rationale for the draft policy.

**Appendices:**

A. Landmark Trees letter dated 5 March 2026

James Berry  
Head of Secretariat