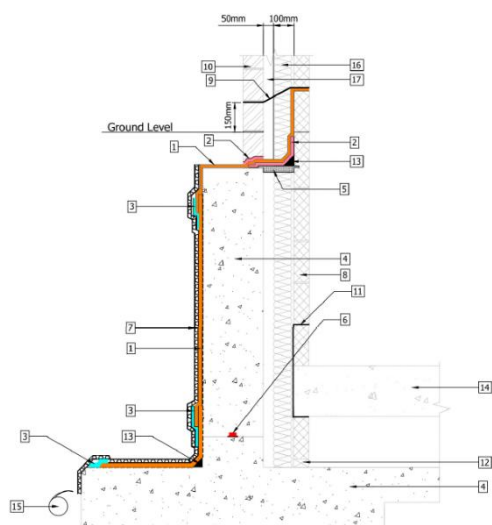


Plot 23: Unresolved Waterproofing, Drainage and Lawfulness Issues



Documents disclosed by Kirklees under FOI reference 41699 include a detailed waterproofing arrangement incorporating a fully bonded waterproofing system on the external, earth-facing side of the concrete retaining wall.

Kirklees must establish whether this detail formed part of the approved planning documents, the Building Regulations submission or another technical specification applicable to Plot 23. The available photographic evidence nevertheless raises serious questions about whether the documented arrangement was followed.

Care must be taken to distinguish between the different products and wall faces involved:

- The **fully bonded waterproofing system** shown in the disclosed detail would be applied to the external, earth-facing concrete face.
- The light-grey membrane installed on that external face has been positively identified as **Wykamol CM8 Geotextile**. This is a drainage and protection product, not the fully bonded waterproofing system itself.
- The white membrane fitted to the internal, Plot 23-facing side of the retaining wall is believed to be **Wykamol CM8 Cavity Drain membrane**. It is a separate product, installed in a different location, and must not be confused with either the grey external Geotextile membrane or the fully bonded external waterproofing system.



- Building Control has separately referred to a primary waterproofing system situated internally. It has not been established whether that means inside the lower-ground building itself, whether the white membrane forms any part of it, or precisely what complete system was installed.

The expected external sequence indicated by the detail disclosed under FOI 41699 appears to be:

1. the external, earth-facing concrete wall;
2. the fully bonded waterproofing system;
3. the light-grey CM8 Geotextile drainage and protection membrane; and
4. the retained ground or backfill.

Evidence concerning the external face

Photographs taken before concealment appear to show areas of the external, earth-facing concrete without the fully bonded waterproofing system shown in the disclosed detail.

The light-grey CM8 Geotextile is visible in some areas. Where it already covers the concrete, photographs cannot reveal what is behind it. However, where the earth-facing concrete remained exposed before the CM8 Geotextile was fitted or backfilling occurred, no fully bonded layer is apparent.

Later photographs do not appear to show the fully bonded system being added to those exposed areas before they were covered or became inaccessible. Construction and backfilling subsequently progressed to the point at which a continuous fully bonded external system could not now be installed in the documented manner without excavation, removal of the CM8 Geotextile and disturbance of later construction.

The absence of a visible membrane in photographs is not, by itself, conclusive proof that no system exists elsewhere. The applicant should therefore be required to produce contemporaneous installation photographs, inspection records and certification demonstrating that the fully bonded system was installed throughout before the CM8 Geotextile and backfill concealed it.

Apparent inspection before concealment

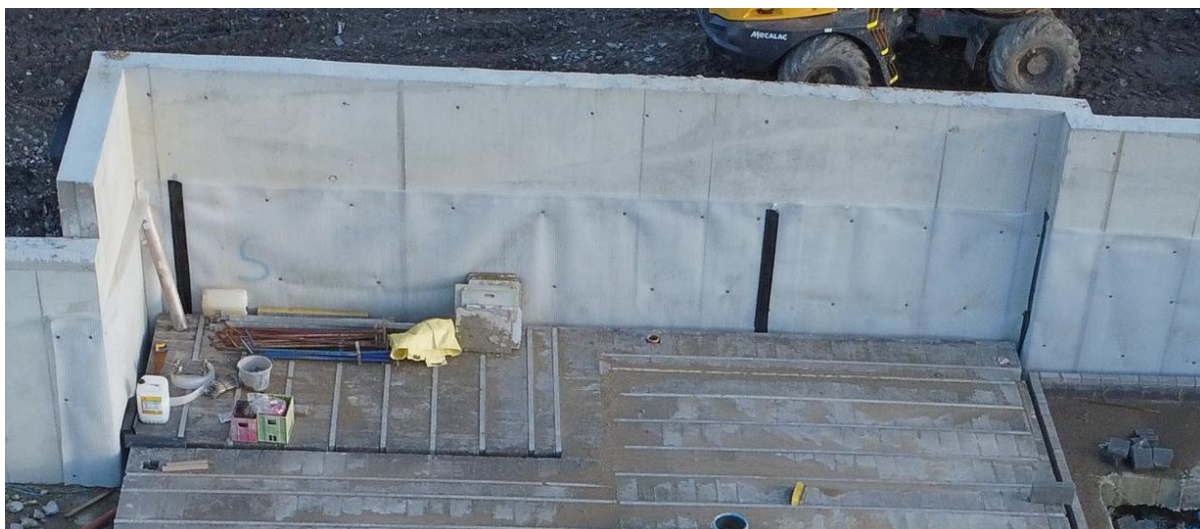
Time-stamped CCTV footage from 1 September 2025, from which the accompanying still has been extracted, shows a person who appears to inspect the retaining works at Plot 23. Within minutes of that person leaving, an excavator begins earth-moving or apparent backfilling in the same area.



The evidence alone does not establish the visitor's identity or the precise purpose of the visit. It does, however, demonstrate how quickly work capable of concealing the external waterproofing and drainage arrangement followed the apparent inspection.

Kirklees should identify the visitor, the purpose and scope of the visit, what was inspected, whether the external face and fully bonded system were visible, what records or photographs were produced, and what evidence was relied upon before backfilling proceeded.

The white membrane on the internal face



The photograph dated 14 March 2026 shows the white membrane fitted across the internal, Plot 23-facing side of the retaining wall. Large areas remained uncovered above it at that stage.



Further rolls were subsequently added, overlapping the earlier material and extending above the top of the retaining wall. By 22 May 2026, the upper material was present on the left-hand section and was apparently being held in position by loose concrete blocks pending construction of the stone wall above. The corresponding upper layer remained absent behind the kitchen area on the right at that time.

These photographs are relevant to the identity, continuity and installation sequence of the white membrane. They do not establish whether the fully bonded system was present or absent from the opposite, earth-facing side.

If the white product is Wykamol CM8 Cavity Drain membrane, it may form part of a drainage or waterproofing strategy. However, it cannot simply be assumed to constitute the unidentified internal primary system referred to by Building Control.

The evidence needed to identify the white membrane and the complete system of which it forms part is included in the consolidated evidence request below.

Condition of the external CM8 Geotextile

There are separate concerns about the installation and protection of the light-grey CM8 Geotextile on the external, earth-facing side.

Photographs show this product loose, folded, displaced or torn, with irregular junctions and angular stone placed immediately against it. Advice obtained from a representative associated with the manufacturer has questioned aspects of its installation.

Comparative evidence from Plot 2 shows the same grey product left exposed and unprotected for a prolonged period:

- On 5 September 2025, a distinct tear was visible in the geotextile face.
- By 17 October, the material remained exposed and had become extensively distorted and damaged.
- On 9 November, a large angular stone was bearing directly against it beside an apparent impact tear.



The Plot 2 photographs do not establish what was installed at Plot 23. They do, however, demonstrate how the same external drainage product was handled elsewhere on the development and suggest that inadequate protection and damage may not have been isolated occurrences.

Building Control's account

Building Control has indicated that the primary waterproofing system is situated internally and that the external membrane is secondary.



The grey external CM8 Geotextile may properly be described as secondary because it is a drainage and protection layer rather than the fully bonded waterproofing system shown in the disclosed external detail. That description does not, however, explain the apparent departure from the documented arrangement.

Building Control's account therefore raises one central question: what precisely is the primary internal waterproofing system, and where is it situated in relation to the dwelling and the separate retaining wall? Kirklees must also establish whether the white membrane forms part of that system, when and under what drawings it was designed, authorised, installed and inspected, whether it was an approved substitution for the fully bonded external arrangement, and how the internal and external drainage components connect with the land drain and final discharge.

This is not an argument that an internal cavity-drain system can never provide suitable waterproofing. The issue is that Kirklees holds a detailed design showing a fully bonded external system, while the available evidence appears to show materially different construction and Building Control now relies upon an internal system that has not been clearly identified or evidenced.

Potential implications for the lawfulness of Plot 23

The formal status of the waterproofing detail disclosed under FOI 41699 is important for a further reason.

If the fully bonded external waterproofing system formed part of the operative planning permission or a planning condition applying to Plot 23, and was materially omitted, the issue may extend beyond technical waterproofing or Building Regulations compliance.

This does not mean that omission of any construction product automatically makes the dwelling unlawful. Kirklees must first determine whether the waterproofing detail was planning-controlled, whether it applied to Plot 23 and, if so, whether the departure was material when the building operation is considered as a whole.

Only if Plot 23 was not lawfully constructed would article 3(5) of the General Permitted Development Order potentially prevent reliance upon Schedule 2 permitted-development rights for later works. A fresh express application could still be made, but permission for selected alterations would not necessarily regularise a separate underlying departure outside that application's scope.

Kirklees must therefore determine the formal status and materiality of the disclosed detail before deciding whether it has any consequence for application 2026/91657. If it was planning-controlled and materially departed from, the current application must not be treated as regularising that separate departure unless the application expressly encompasses it.

Before determination, Kirklees should therefore establish:

- the formal planning status of the FOI 41699 waterproofing detail;
- whether the fully bonded system was required by the operative planning permission;
- whether it was actually installed;
- whether any alternative system was formally authorised;
- whether any omission constitutes a material departure when Plot 23 is considered as a whole;
- whether application 2026/91657 expressly encompasses that departure; and
- what elements of the as-built dwelling would remain unresolved if the current application were approved.

Relevance to application 2026/91657

Application 2026/91657 seeks permission for the retention and further use of substantial lower-ground construction, including the proposed garden room and store.

The Council must therefore consider both the physical suitability of that construction and the precise extent of the development the application would regularise. It should not grant permission on the

assumption that approval of the identified alterations would also resolve any separate departure involving the underlying dwelling, retaining structure or waterproofing arrangements.

The waterproofing, drainage and long-term durability of this lower-ground construction are directly relevant to what the Council is being asked to approve. The application should not be approved in its present form or on the present evidence.

Before determination, the applicant should be required to provide:

- dated photographs showing the fully bonded system on the external, earth-facing face before the grey CM8 Geotextile and backfill were added;
- the approved or accepted waterproofing specification and construction details;
- installation, inspection, warranty and certification records for the external system;
- details and photographs of all joints, terminations, penetrations and repairs;
- evidence explaining how the external protection and drainage layers connect with the land drain and final discharge;
- confirmation of the precise identity, specification, purpose and waterproofing classification of the white internal-face membrane, its position in relation to the dwelling and retaining wall, and the complete system of which it forms part;
- complete drawings, specifications, installation and inspection records for the primary internal system referred to by Building Control, including treatment of floors, walls, joints, corners and penetrations and the collection and safe discharge of water;
- evidence that both the external and internal installations are complete and continuous;
- evidence that damaged or displaced CM8 Geotextile was properly repaired before concealment;
- the identity of the visitor, purpose and scope of the apparent inspection on 1 September 2025, together with all inspection records, photographs and evidence relied upon before backfilling;
- the engineered termination detail for the western end of the gabion wall; and
- a full explanation of any departure from, or substitution for, the waterproofing arrangement disclosed under FOI 41699.

If the fully bonded external system was not installed, the applicant should also provide a technically credible remedial scheme. It must identify the complete system actually installed, explain how and when it departed from the documented arrangement and by whom that change was authorised, and demonstrate how continuous and suitable protection has been achieved.

The remedial scheme must also explain how concealed areas can now be inspected and verified and how any necessary work can physically be undertaken without relying upon inaccessible or already-covered construction.

Conclusion

The present evidence does not demonstrate that Plot 23 was constructed with the complete waterproofing arrangement documented in the material disclosed under FOI 41699. Nor has sufficient evidence been produced to establish the identity, location, completeness and adequacy of the alternative internal system upon which Building Control appears to rely.

The photographs must be interpreted carefully. Those showing the white membrane on the internal, Plot 23-facing side do not establish whether the fully bonded system was installed on the opposite, earth-facing side. However, photographs of the external face, the subsequent installation of the grey CM8 Geotextile, its visible condition and the rapid progression to backfilling create a clear requirement for contemporaneous installation and inspection evidence.

Kirklees must also establish whether the documented waterproofing arrangement formed part of the operative planning permission and, if so, whether any material departure affects the lawfulness of the building as a whole. Approval of application 2026/91657 should not be allowed to regularise unidentified departures by implication.

These matters should be positively established before the application is determined. They should not be resolved by assuming that the necessary protection exists behind construction that has already been covered or made inaccessible.