

**WICKLOW COUNTY COUNCIL**

**PLANNING & DEVELOPMENT ACTS 2000 (As Amended)  
SECTION 5**

Director of Services Order No: 534/2023

Reference Number: EX 17/2023

Name of Applicant: William Halligan

Nature of Application: Section 5 Referral as to whether "Installation of Solar Panels at Farmyard, Mullinaveigue, Roundwood, Co Wicklow" is or is not exempted development.

Location of Subject Site: Farmyard, Mullinaveigue, Roundwood, Co Wicklow

Report from Chris Garde EP & Edel Bermingham SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "Installation of Solar Panels at Farmyard, Mullinaveigue, Roundwood, Co Wicklow" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

**Having regard to:**

- The details received with this Section 5 application (EX 17/2023) on the 1<sup>st</sup> of March 2023.
- Sections 2, and 3 of the Planning & Development Act 2000 (as amended).
- Article 6 and Class 6 of Schedule 2 of Part 3 of the Planning and Development Regulations 2001 as amended.
- Article 9 of the Planning and Development Regulations 2001 as amended.

**Main Reasons with respect to Section 5 Declaration:**

- 1) The proposal for "the installation of Solar Panels" (2No. arrays c.37.2sqm in total) onto the roof planes of 2No. existing agricultural structures at Mullinaveigue, Roundwood, Co Wicklow would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
- 2) The proposed development comes within the provisions of Schedule 2 of Part 3 Class 18 of the Planning & Development Regulations 2001 (as amended).

**Recommendation**

The Planning Authority considers that "Installation of Solar Panels at Farmyard, Mullinaveigue, Roundwood, Co Wicklow" is development and is exempted development as recommended in the planning reports.

Signed  Dated 23rd day of March 2023

**ORDER:**

That a declaration to issue stating:

That "Installation of Solar Panels at Farmyard, Mullinaveigue, Roundwood, Co Wicklow" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed:   
**Director of Services**  
**Planning Development & Environment**

Dated 23 day of March 2023



# Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol  
Planning Development and Environment

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Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

William Halligan

23<sup>rd</sup> March 2023

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended)

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I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000 in respect of the following:

Exemption Ref No: EX 17/2023

Applicant: William Halligan

Nature of Application: Installation of Solar Panels at Farmyard,  
Mullinaveigue, Roundwood, Co Wicklow

Location: Farmyard, Mullinaveigue, Roundwood, Co Wicklow

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,

ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT.



# Comhairle Contae Chill Mhantáin Wicklow County Council

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## DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT ACT 2000 AS AMENDED

**Applicant: William Halligan**

**Location: Farmyard, Mullinaveigue, Roundwood, Co Wicklow**

**DIRECTOR OF SERVICES ORDER NO 534/2023**

A question has arisen as to whether "Installation of Solar Panels at Farmyard, Mullinaveigue, Roundwood, Co Wicklow" is or is not exempted development.


**Having regard to:**

- The details received with this Section 5 application (EX 17/2023) on the 1<sup>st</sup> of March 2023.
- Sections 2, and 3 of the Planning & Development Act 2000 (as amended).
- Article 6 and Class 6 of Schedule 2 of Part 3 of the Planning and Development Regulations 2001 as amended.
- Article 9 of the Planning and Development Regulations 2001 as amended.

**Main Reasons with respect to Section 5 Declaration:**

- 1) The proposal for "the installation of Solar Panels" (2No. arrays c.37.2sqm in total) onto the roof planes of 2No. existing agricultural structures at Mullinaveigue, Roundwood, Co Wicklow would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
- 2) The proposed development comes within the provisions of Schedule 2 of Part 3 Class 18 of the Planning & Development Regulations 2001 (as amended).

**The Planning Authority considers that "Installation of Solar Panels at Farmyard, Mullinaveigue, Roundwood, Co Wicklow" is development and is exempted development.**

Signed:   
ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 23<sup>rd</sup> March 2023



## WICKLOW COUNTY COUNCIL

### Planning Department

#### Section 5 – Application for declaration of Exemption Certificate

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**TO:** Fergal Keogh SE, Edel Bermingham SEP, Suzanne White SEP.  
**FROM:** Chris Garde EP.  
**SUBJECT REF:** EX 17/2023  
**DECISION DUE DATE:** 28/03/2023  
**APPLICANT:** William Halligan  
**ADDRESS:** Mullinaveigue, Roundwood, Co. Wicklow.  
**EXEMPTION QUERY:** Are works relating to the Installation of Solar Panels at Farmyard, Mullinaveigue, Roundwood, Co Wicklow exempted development.

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#### Application Site:

The subject site is located at Mullinaveigue, Roundwood, Co. Wicklow.

#### Aerial Imagery:



#### Relevant Planning History:

-File No.: 17/10

Applicant: William Halligan

Application: Permission for demolition of existing dwelling and construction of new dwelling and all ancillary site works

Decision: Conditional

-EX30/15

Applicant: William Halligan

Declaration: Construction of slatted cattle house

Decision: Development but is exempted development

-File No.: 13/8429

Applicant: William Halligan

Application: Permission for extensions and alterations to existing dwelling including site works

Decision: Conditional

**Question:**

The applicant has applied for a determination as to whether *"the installation of Solar Panels at Farmyard, Mullinaveigue, Roundwood, Co Wicklow"* is or is not development and is or is not exempted development.

**Legislative Context:****-Planning and Development Act 2000 (as amended)**

**Section 3(1)** of the Act states the following in respect of 'development':

*"In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."*

**Section 2(1)** of the Act states the following in respect of 'works':

*"Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."*

**Section 4** sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act.

**Section 4(1)(h)** *development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;*

**Planning and Development Regulations, 2001 (as amended)**

**Article 6(1)** states that certain classes of development which are specified in Schedule 2 shall be exempted development for the purposes of the Act, subject to compliance with any associated conditions and limitations;

**Article 9(1)(a)** details a number of circumstances under which the development to which Article 6 relates shall not be exempted development for the purposes of the Act;

**Planning and Development Regulations 2001 as amended****Schedule 2 Part 3, Class 18**

Description of Development	Limitations and Conditions
(c) The placing or erection on a roof or wall of an agricultural structure, or within the curtilage of an agricultural holding, or on a roof or wall of any ancillary buildings within the curtilage of an agricultural holding of a solar photo-voltaic and/or solar thermal collector installation.	1. Where such development is located within a solar safeguarding zone, the total aperture area of any solar photo-voltaic and/or solar thermal collector panels, taken together with any other such panels previously placed on a roof, shall not exceed 300 square metres.

	<p>2. Where such development is located within a solar safeguarding zone, the planning authority for the area shall be notified in writing no later than 4 weeks after the commencement of such development and such notification shall include details regarding the location and scale of the development.</p> <p>3. The distance between the plane of the roof and the solar photo-voltaic or solar thermal collector panels shall not exceed 1.2 metres in the case of a flat roof or 15cm in any other case.</p> <p>4. The solar photo-voltaic or solar thermal collector panels shall be a minimum of 2 metres in the case of a flat roof or 50cm in any other case from the edge of the roof on which it is mounted.</p> <p>5. Development shall not be exempted development where the highest part of the solar photo-voltaic or solar thermal collector installation exceeds the highest part of any roof that is not a flat roof (excluding any chimney).</p> <p>6. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels shall not be placed or erected on a wall or any roof that is not a flat roof.</p> <p>7. The height of any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall not exceed 1.6 metres above roof level.</p> <p>8. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall be a minimum of 2 metres from the edge of the roof on which it is mounted.</p> <p>9. The total aperture area of any wall mounted solar photo-voltaic and solar thermal collector panels taken together with any other such existing wall mounted panels shall not exceed 75 square metres.</p> <p>10. The distance between the plane of the wall and the solar photo-voltaic or solar thermal collector panels shall not exceed 15cm.</p>
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	<p>11. The solar photo-voltaic or solar thermal collector panels shall be a minimum of 50cm from the edge of the wall on which it is mounted.</p> <p>12. Any free-standing solar photo-voltaic or solar thermal collector installation shall not be placed or erected forward of the front wall of the nearest agricultural structure, within the curtilage of the agricultural holding, to a public road.</p> <p>13. The total aperture area of any free-standing solar photo-voltaic and solar thermal collector panels taken together with any other such existing free-standing panels shall not exceed 75 square metres.</p> <p>14. The height of any free-standing solar photo-voltaic or solar thermal collector installation shall not exceed 2.5 metres at its highest point above ground level.</p> <p>15. The placing or erection of any free-standing solar photo-voltaic or solar thermal collector installation within an Architectural Conservation Area shall only be exempted development if those works would not materially affect the character of the area.</p> <p>16. No sign, advertisement or object not required for the functioning or safety of the solar photo-voltaic or solar thermal collector installation shall be attached to or exhibited on such installation.</p> <p>17. Development under this Class shall only be exempted development where the solar photo-voltaic or solar thermal collector installation is primarily used for the provision of electricity or heating for use within the curtilage of the agricultural holding, and shall not be considered a change of use for the purposes of the Act.</p> <p>18. Development under this Class which causes hazardous glint and/or glare shall not be exempted development and any solar photo-voltaic or solar thermal collector panels which are causing hazardous glint and/or glare shall either be removed or be covered until such time as a mitigation plan to address the hazardous glint and/or glare is agreed and implemented to the satisfaction of the Planning Authority.</p>
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**Assessment:**

The Section 5 declaration application seeks an answer as to whether or not the “*the installation of Solar Panels at Farmyard, Mullinaveigue, Roundwood, Co Wicklow*” is or is not development; and is or is not exempted development.

The site is in agricultural use and envelopes a cluster of agricultural buildings. It is accessed via a lane off the R755 road. The lane forms a junction with the R755 road. The sightlines are adequate at the junction of the lane with the R755 road. The site is located over 1km from the public road.

From the details provided c.37.2sqm of solar panels is proposed (arranged in two separate arrays of 12No. panels (c.10.6m long by 2.1m wide and 22.3sqm in total) and 8No. panels (c.8.4m long by c1.77m wide and 14.9sqm in total) on two separate south and west facing roof planes of existing agricultural structures.

1. The first assessment must be whether or not the proposal outlined above constitutes development within the remit of Section 3 of the Planning and Development Act 2001. In this regard, Section 3 of the Planning and Development Act provides that:

“development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

It should be noted that Section 2 of the Act defines works as:

“works” include any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

The proposal involves alterations to an existing structure and would therefore involve works within the meaning of Section 3 of the Act, the provision of *Solar Panels* therefore constitutes development.

2. The second stage of the assessment is to determine whether or not the proposal would be exempted development under the Planning and Development Act 2000 (as amended) or it's associated Regulations.

Having regard to the above, it is considered that the proposed installation of c.37.2sqm of Solar Panels existing agricultural structures at the farmyard comes within the conditions and limitations outlined under Schedule 2, Part 3, Class 18 of the Planning and Development Regulations 2001 as amended. Therefore, the proposed installation of c.37.2sqm of Solar Panels is exempted development.

Having regard to description of the works and structure that would be carried out on site, it is considered that the proposal comes within the definition of development as stated under Section 3 of the Planning and Development Act 2000 as Amended. In this regard the proposed works is development.

**Recommendation:**

**With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether:**

Whether or not "*Solar Panels*" is or is not development, and is or is not exempted development.

**The Planning Authority considers that:**

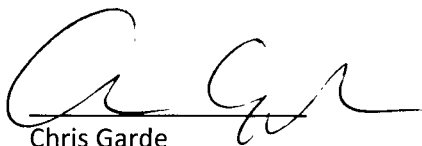
The proposal for "*the installation of Solar Panels*" at Mullinaveigue, Roundwood, Co. Wicklow is development, and is exempted development.

**Main Considerations with respect to Section 5 Declaration:**

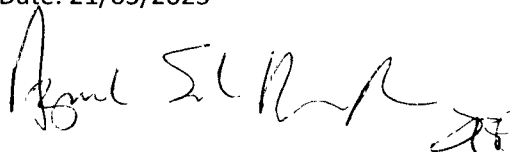
- The details received with this section 5 application (EX17/2023) on the 1<sup>st</sup> March 2023.
- Sections 2, and 3 of the Planning and Development Act 2000 (as amended).
- Article 6 and Class 6 of Schedule 2 of Part 3 of the Planning and Development Regulations 2001 as amended.
- Article 9 of the Planning and Development Regulations 2001 as amended

**Main Reasons with respect to Section 5 Declaration:**

- 1) The proposal for "*the installation of Solar Panels*" (2No. arrays c.37.2sqm in total) onto the roof planes of 2No. existing agricultural structures at Mullinaveigue, Roundwood, Co. Wicklow would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
- 2) The proposed development comes within the provisions of Schedule 2 of Part 3 Class 18 of the Planning and Development Regulations 2001 (as amended).



Chris Garde  
Executive Planner  
Date: 21/03/2023

  
21/3/23

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23/3/23

# **MEMORANDUM**

## **WICKLOW COUNTY COUNCIL**

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**TO: Chris Garde**  
**Executive Planner**

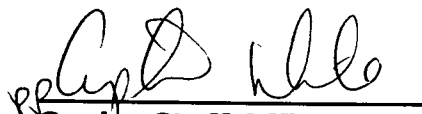
**FROM: Crystal White**  
**Assistant Staff Officer**

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**RE:- EX 17/2023 - Declaration in accordance with Section 5 of the  
Planning & Development Acts 2000 (as amended)  
Installation of Solar Panels at Farmyard, Mullinaveigue, Roundwood, Co  
Wicklow**

I enclose herewith for your attention application for Section 5 Declaration  
received 1<sup>st</sup> of March 2023.

The due date on this declaration is the 28<sup>th</sup> of March 2023.



**Senior Staff Officer**  
**Planning Development & Environment**



# Comhairle Contae Chill Mhantáin Wicklow County Council

**Forbairt Pleanála agus Comhshaol  
Planning Development and Environment**

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02/03/2023

**William Halligan**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 17/2023  
Installation of Solar Panels at Farmyard, Mullinaveigue, Roundwood, Co Wicklow**

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I wish to acknowledge receipt on the 1<sup>st</sup> of March 2023 details supplied by you in respect of the above section 5 application. A decision is due in respect of this application by 28/03/2023.

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\_\_\_\_\_  
**SENIOR EXECUTIVE OFFICER  
PLANNING DEVELOPMENT AND ENVIRONMENT**

Wicklow County Council  
County Buildings  
Wicklow  
0404-20100

01/03/2023 13 29 04

Receipt No L1/0/309548

WILLIAM HALLIGAN  
MULLINAVEIGUE  
ROUNDWOOD  
CO WICKLOW

EXEMPTION CERTIFICATES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total	80 00 EUR
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Tendered	
Credit Card	80 00

Change	0 00
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Issued By . Charlie Redmond  
From . Customer Service Hub  
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Telephone 0404 20148  
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Date Received \_\_\_\_\_

Fee Received \_\_\_\_\_

**APPLICATION FORM FOR A  
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &  
DEVELOPMENT ACTS 2000(AS AMENDED) AS TO WHAT IS OR IS NOT  
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

**1. Applicant Details**

- (a) Name of applicant: William Halligan  
Address of applicant: \_\_\_\_\_

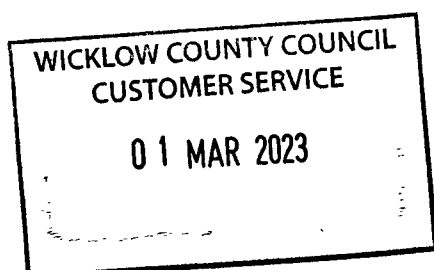
Note Phone number and email to be filled in on separate page.

**2. Agents Details (Where Applicable)**

- (b) Name of Agent (where applicable) N/A

Address of Agent : \_\_\_\_\_

Note Phone number and email to be filled in on separate page.





### **3. Declaration Details**

i. Location of Development subject of Declaration \_\_\_\_\_  
Mullinaveigue, Roundwood, Co. Wicklow

ii. Are you the owner and/or occupier of these lands at the location under i. above ?  
Yes

iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

iv. Section 5 of the Planning and Development Act provides that : If any question arises as to what, in any particular case, is or is not development and is or is not exempted development, within the meaning of this act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question. You should therefore set out the query for which you seek the Section 5 Declaration

Installation of Solar panels at farmyard \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Additional details may be submitted by way of separate submission.*

v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration The Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2022 and the supporting Planning and Development (Solar Safeguarding Zone) Regulations 2022 came into effect on 5 October 2022. The regulations combine to provide updated provisions regarding planning exemptions for rooftop solar installations.  
*Additional details may be submitted by way of separate submission.*

- vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure ( or proposed protected structure) ? No
- vii. List of Plans, Drawings submitted with this Declaration Application Drawings from Solar Panel Supplier included.
- viii. Fee of € 80 Attached ? Yes

Signed :  Dated : 28/02/2023

**Additional Notes :**

As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below :

A. Extension to dwelling - Class 1 Part 1 of Schedule 2

- Site Location Map
- Floor area of structure in question - whether proposed or existing.
- Floor area of all relevant structures e.g. previous extensions.
- Floor plans and elevations of relevant structures.
- Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.

B. Land Reclamation -

The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 2000( as amended) there is a certification process with respect to land reclamation works as set out under the European Communities ( Environmental Impact Assessment) (Agriculture) Regulations 2011 S.I. 456 of 2011. You should therefore seek advice from the Department of Agriculture, Fisheries and Food.

Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

# Land Registry Compliant Map

**CENTRE COORDINATES:**  
ITM 719770,705135

**PUBLISHED:** 04/02/2020  
**ORDER NO.:** 50105974\_1

**MAP SERIES:** 1:5,000  
**MAP SHEETS:** 3787  
1:5,000 3788  
1:5,000 3845  
1:5,000 3846

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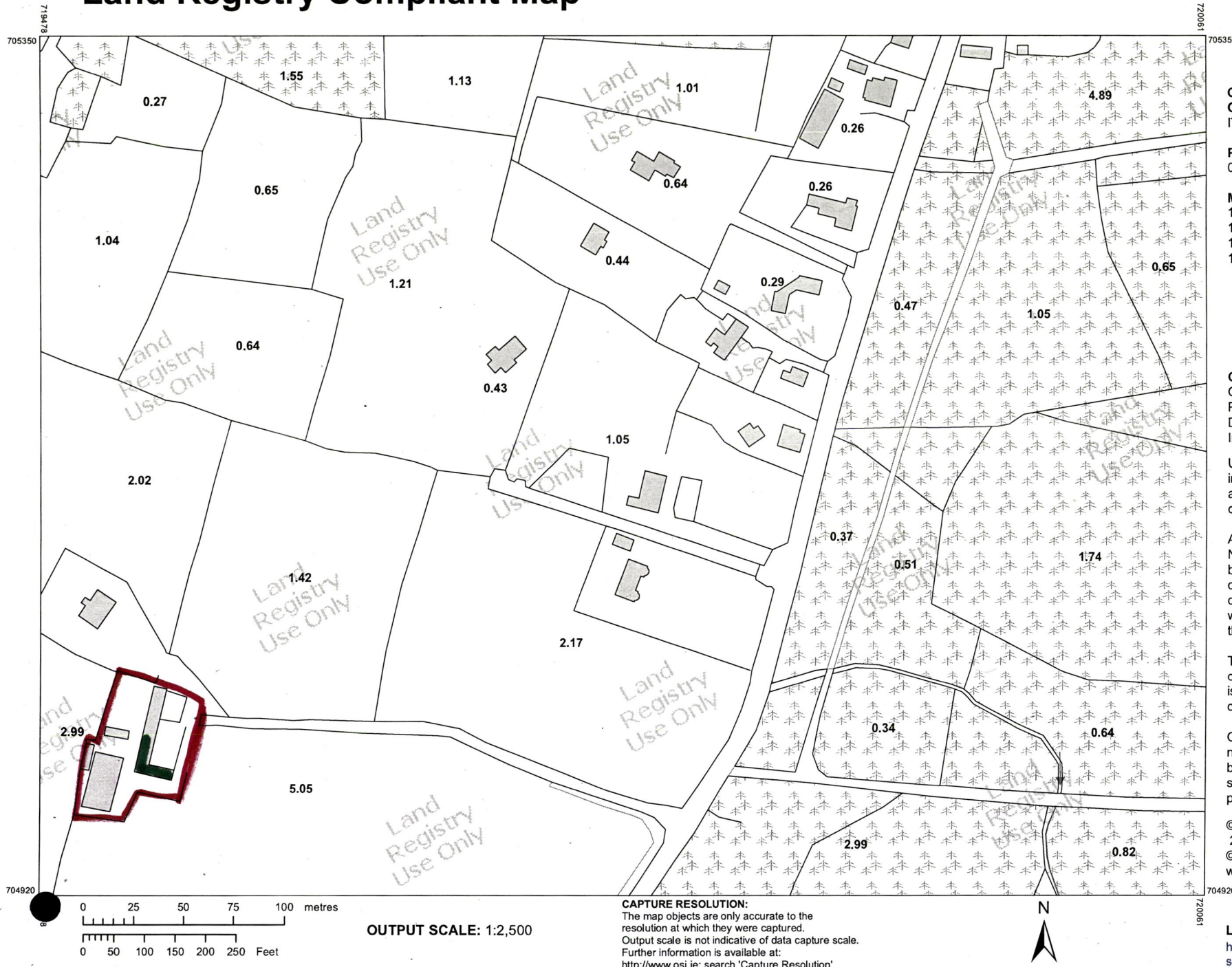
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search 'Large Scale Legend'



## Overview plan

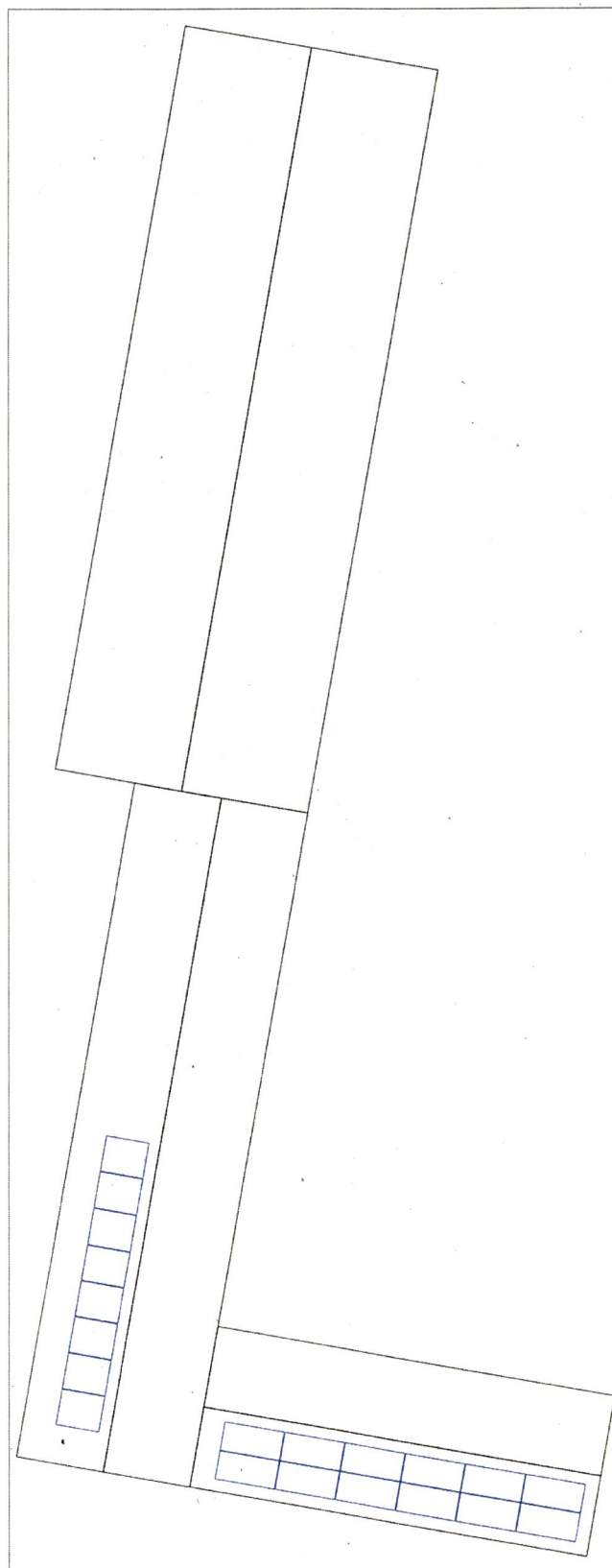


Figure: Overview plan

## Dimensioning Plan

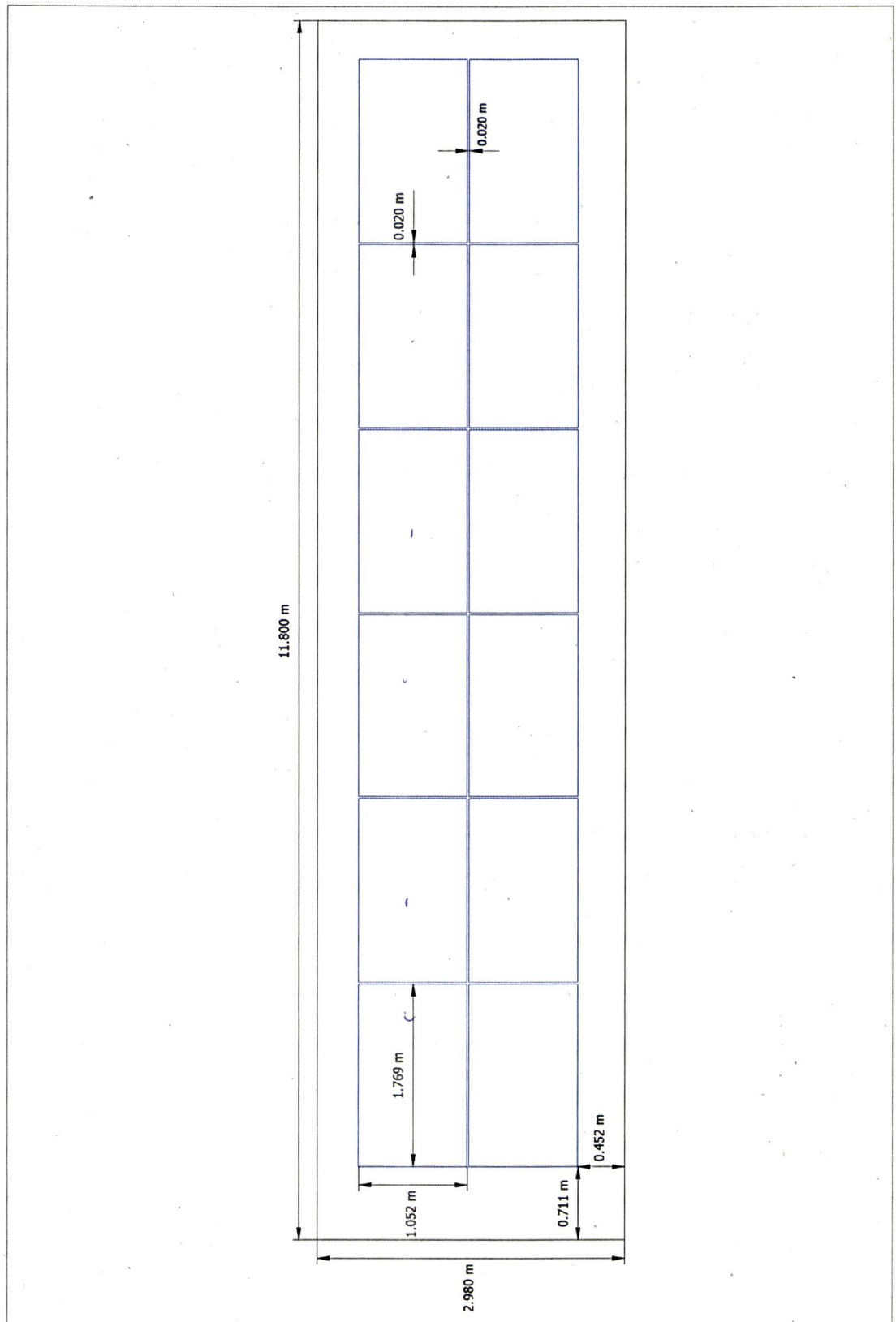


Figure: Building 01-Roof Area South

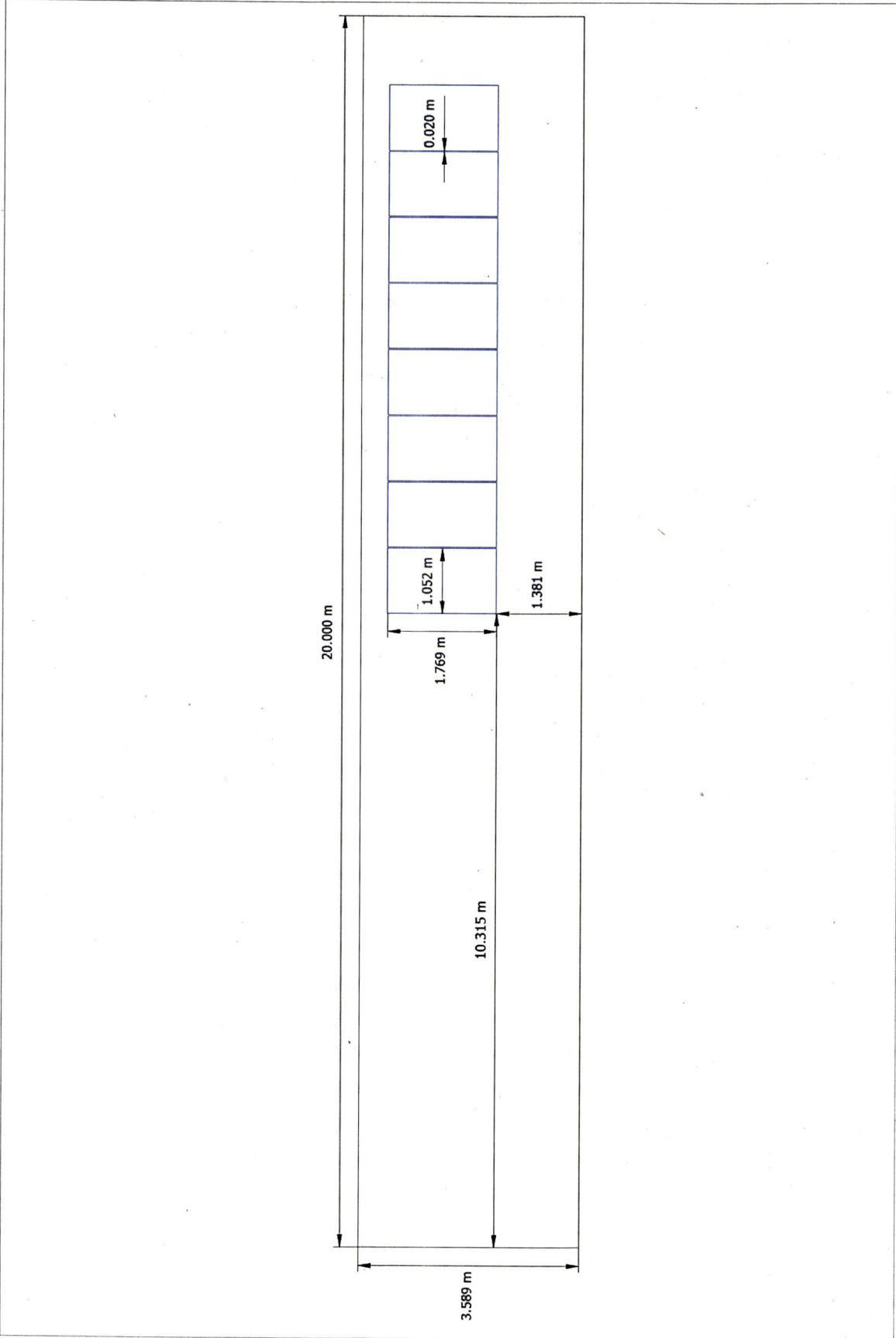


Figure: Building 02-Roof Area West



## String Plan

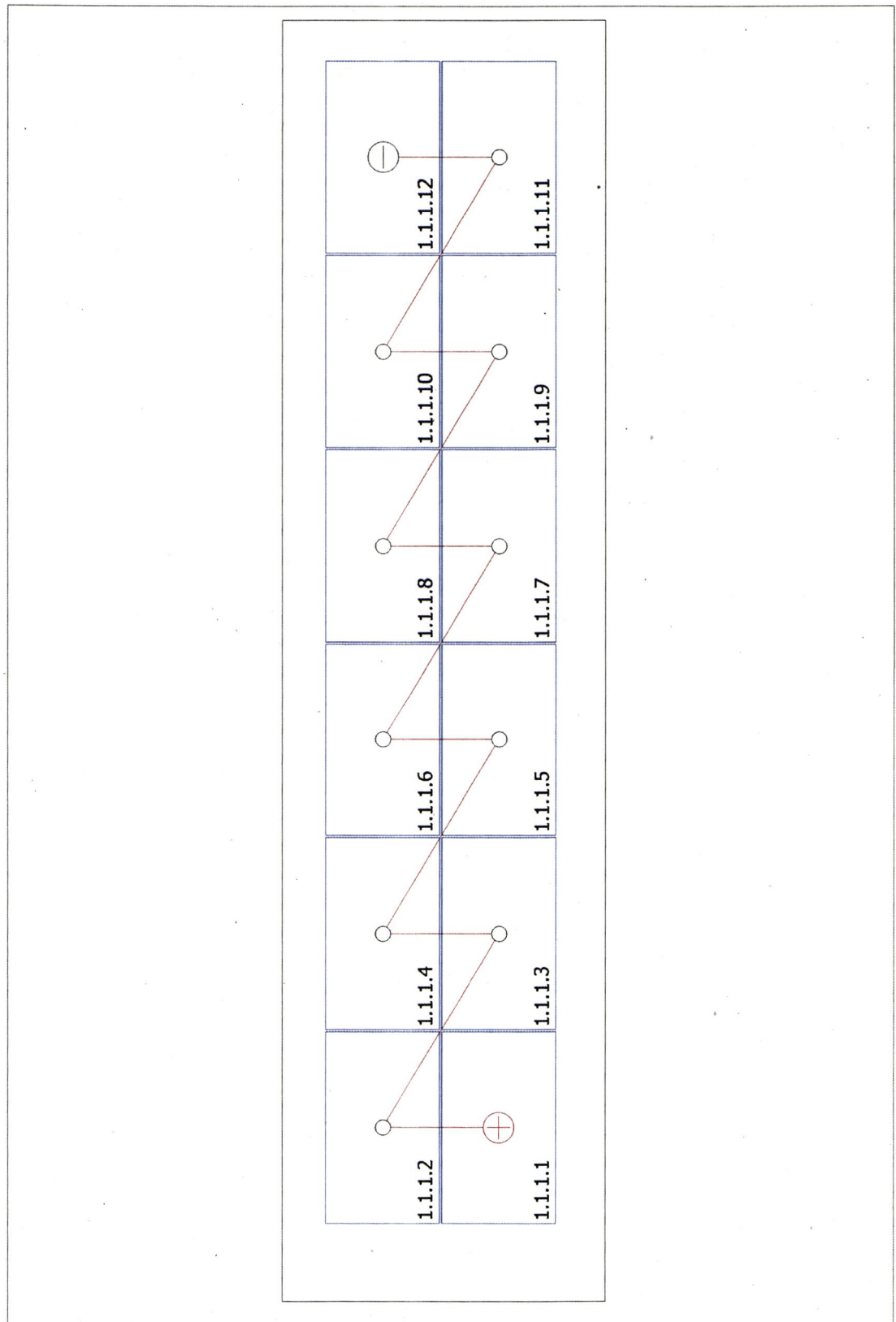


Figure: Building 01-Roof Area South

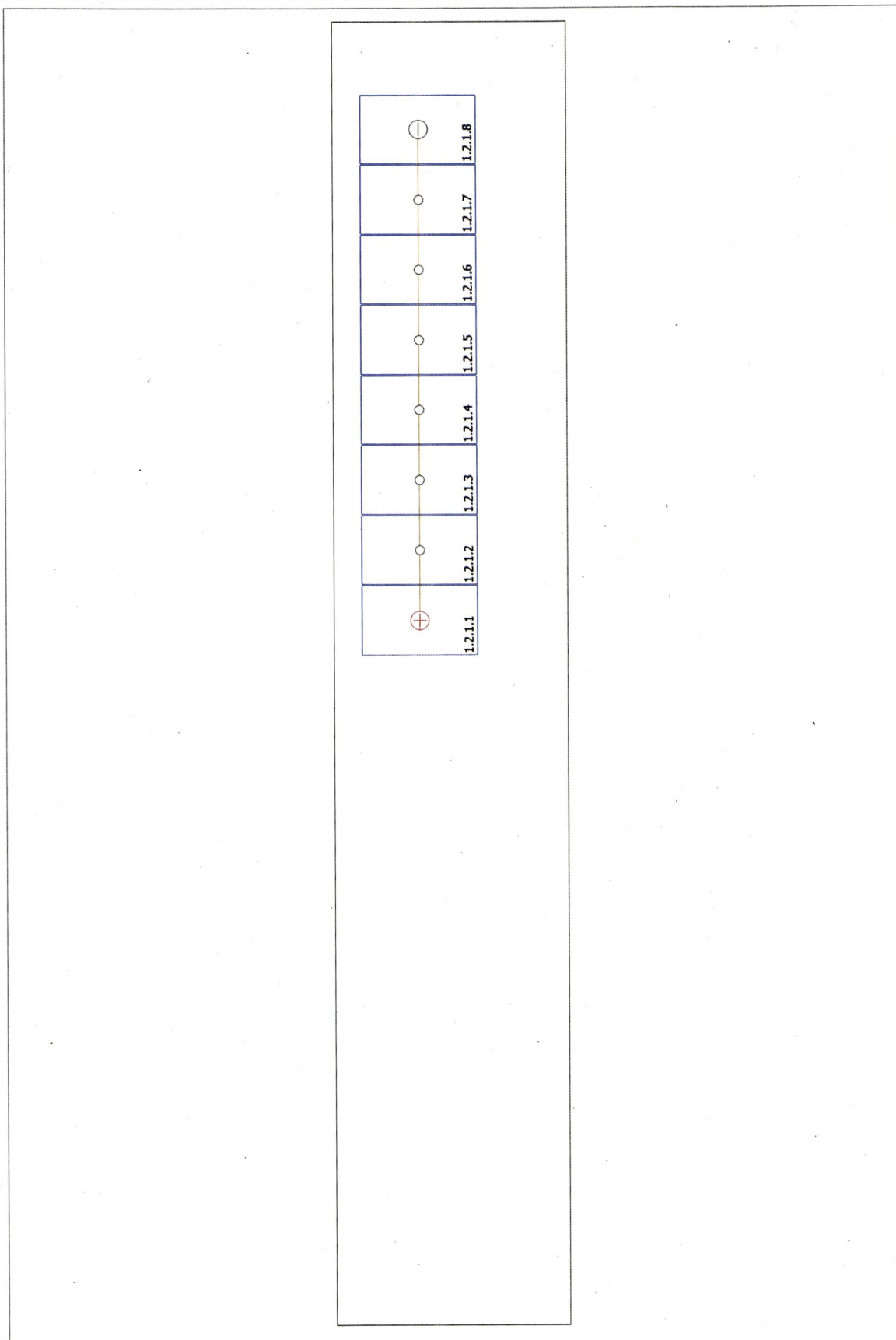


Figure: Building 02-Roof Area West