

Mapping Guidelines - Appendix 5(b)



Transfers of Common Areas under the Multi-Unit Developments Act 2011

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For information on mapping requirements for multi-storey developments and Compulsory First Registration (CFR) of individual Apartments in Multi-storey scheme, please refer to:-

APPENDIX 5(a) – Mapping Requirements for Registration of Multi-storey Developments

1. Implications for Transfers pre April 2011

- 1.1 The Multi-Unit Developments Act 2011 ("the Act") deals primarily with apartment schemes and the apartment content in mixed-use developments, but also includes conventional housing where a scheme of service charge has been provided for in relation to estate common areas.
- 1.2 There are implications for developments where the developer transferred the common areas prior to the enactment of the Act in April 2011. The Act contains a comprehensive definition of "common areas" and, significantly, also requires that the reversion in the units be transferred to the owners' management company (OMC) also, with only the beneficial interest in unsold units being retained. In practical terms for most developments this would result in all of the folio on which the development is registered being transferred and no requirement for a map.
- 1.3 Accordingly, save in the highly unlikely event that they replicate the requirements of the Act all transfers of common areas entered into prior to the Act would need to be revisited. Practitioners would need to take up any pending transfers for amendment and re-execution or formally withdraw same. **The Authority will not proceed to engage in complicated mapping processes where it knows that these will have to be undone at a later stage.**
- 1.4 Practitioners should refer to the precedent multi-unit transfers on the Law Society website and the notes attached. The PRA Practice Direction on Mapping should be consulted also. In brief, the requirements of Sections 3, 4, and 5 of the Act would, in the majority of situations, be satisfied as follows:
 - 1.4.1 **Section 3 (1) (b) Transfer:**
Where no unit has been sold prior to the 1st April 2011
The requirement is that the entire multi-unit development (including the common areas and all units referred to by the Act) to be transferred to the OMC. The beneficial interest in the units is retained. A map would only be necessary where the folio comprised lands in addition to the multi-unit development.
 - 1.4.2 **Section 4 Transfer:**
Where before the 1st April 2011 the ownership of any unit has been transferred to a purchaser
Again, the multi-unit development, in its entirety is transferred in accordance with the Section. The transfer is of the legal estate but retaining the beneficial interest except in relation to units which have been sold. The remaining units, over which the developer retained the beneficial interest, would need to be clearly identified in the schedule to the deed, but not necessarily on a map.
 - 1.4.3 **Section 5 Transfers:**
Where not less than 80% of the units have been sold prior to the 1st April 2011
There are 2 alternative scenarios arising out of this section:
 - i. **A transfer where all the units have been sold:**
In this situation it is unnecessary to retain any legal or beneficial interest in the Estate and, therefore, both are transferred. No map is required.
 - ii. **A transfer where not all the units have been sold:**
This Section (unlike Sections 3 and 4) does not permit the retention of a beneficial interest in the multi-unit development and, in the circumstances; the multi-unit development (but excluding the legal and beneficial interests in the unsold units) is transferred. A map is required clearly identifying the unsold units.

2. Mapping for developments where floor plans have already been lodged and some or all registrations have taken place.

2.1 Leasehold

The title to the majority of MSB residential units in Multi-Unit Developments are registered as leasehold. Floor plans that have already been lodged should not need to be modified or changed where title to the individual residential units is registered as leasehold and where title to the remaining residential units (if any) will also be registered as leasehold. (see Figures 1, 2 & 3) The location map may need to be modified if some of the common areas being transferred to the OMC are situate outside of the Multi-storey building.

2.1.1 In the following example the title to the sold residential units is leasehold and the property that will be transferred to the OMC is all of the freehold interest in all of the property as shown on the modified location map (see Fig 4) including the building thereon edged blue.

Existing Location Map



Figure 1 - Location Map

Existing Floor plans - Leasehold units

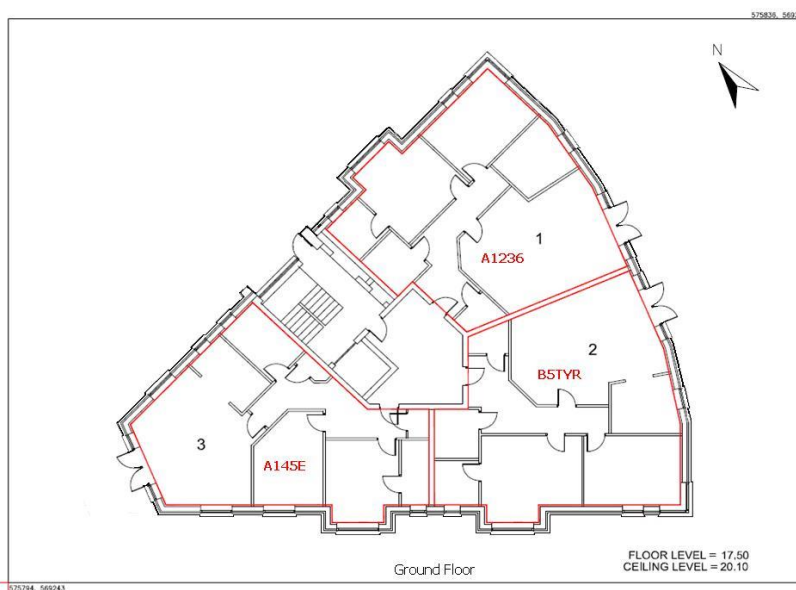


Figure 2 - Ground Floor Plan

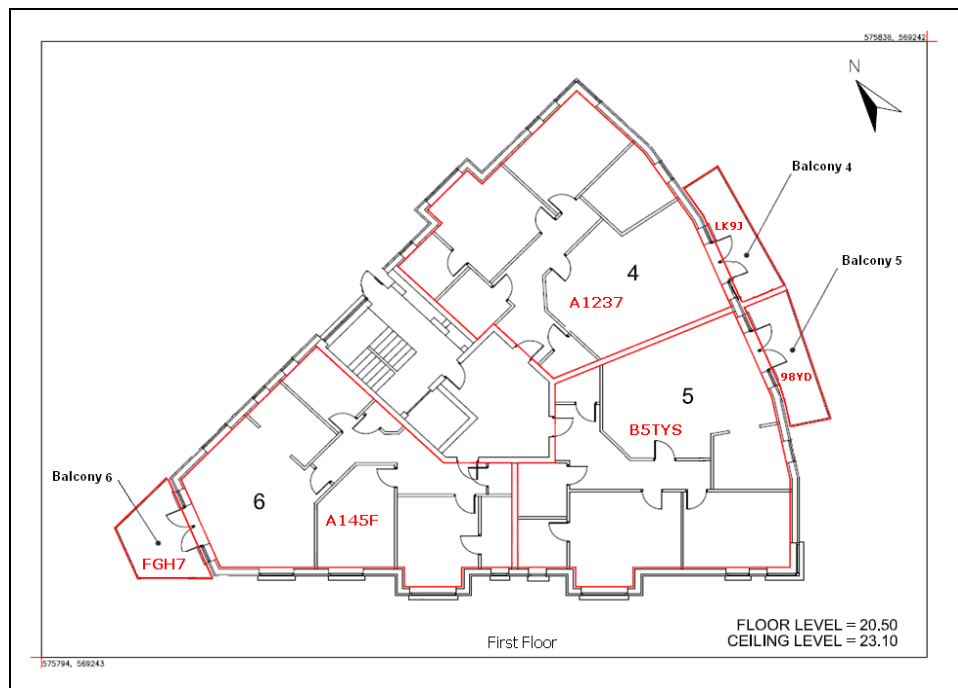


Figure 3 - First Floor Plan

- 2.2 The extent of the leasehold properties are edged red excluding structural features and common areas on the existing floor plans. In the event that some of the 'common areas' are located outside of the multi-storey building then the location map may need to be modified to show the area being transferred to the OMC. The location map should show the footprint of the building (edged blue in Figure 4).

Note: In Figure 3 the balcony is included in the lease; where balconies are not included as part of the lease they should not be edged red as they will form part of the common areas.

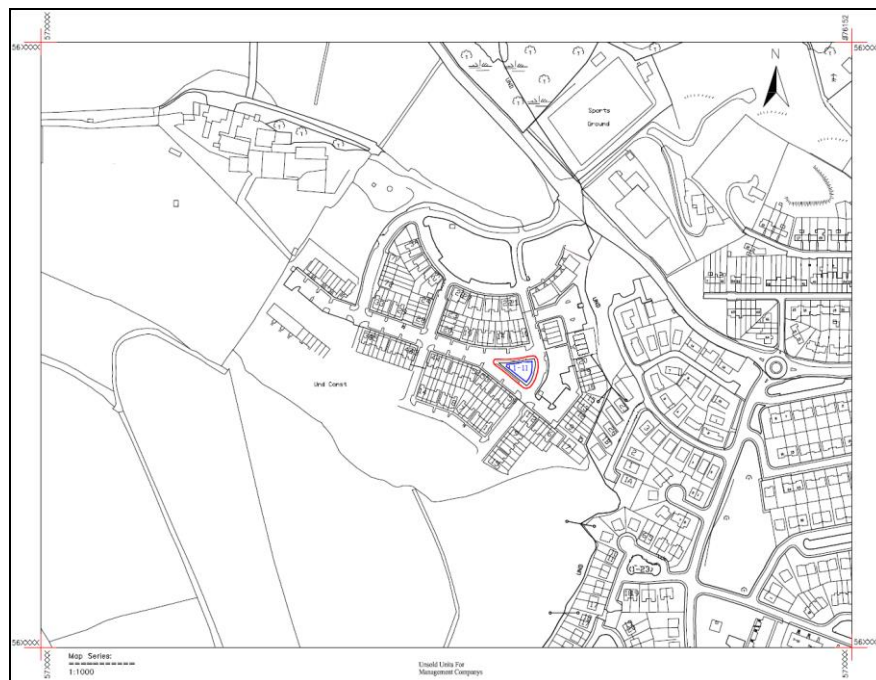


Figure 4 - Example of modified Location Map

2.3 Freehold Units

2.3.1 If however title to the residential units in the development is Freehold then the location map and floor plans will need to be modified to indicate that the structural features and common areas form part of the property being transferred to the OMC. This can be achieved by edging the common area in red on the floor plans and by including some explanatory text such as 'Common Area' (see Figures 6 & 7).

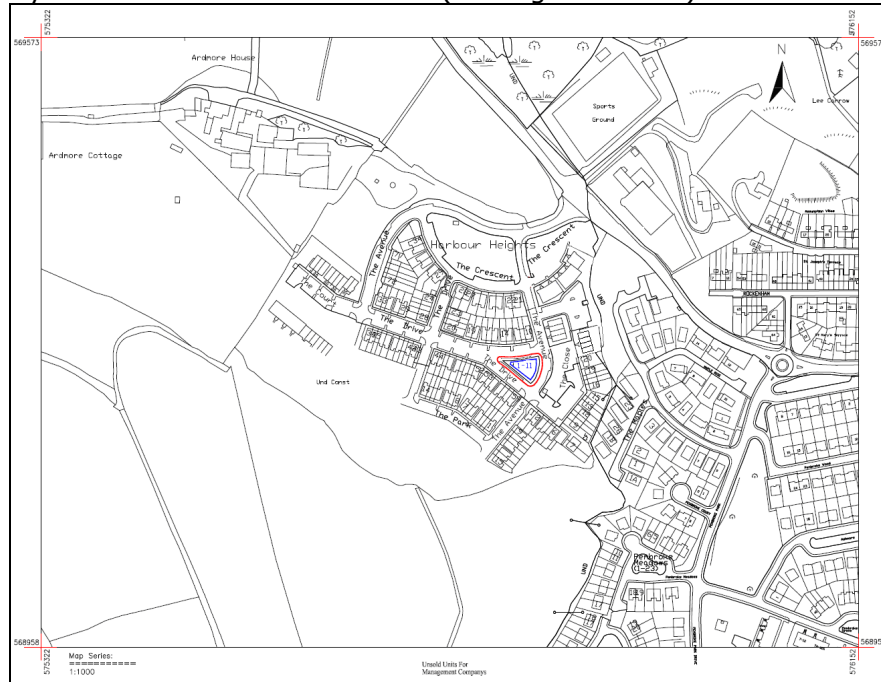


Figure 5 - Example of modified Location Map

Freehold Units

2.3.2 Modified Ground and First Floor Layout with 'Common Area' text and red edging added.

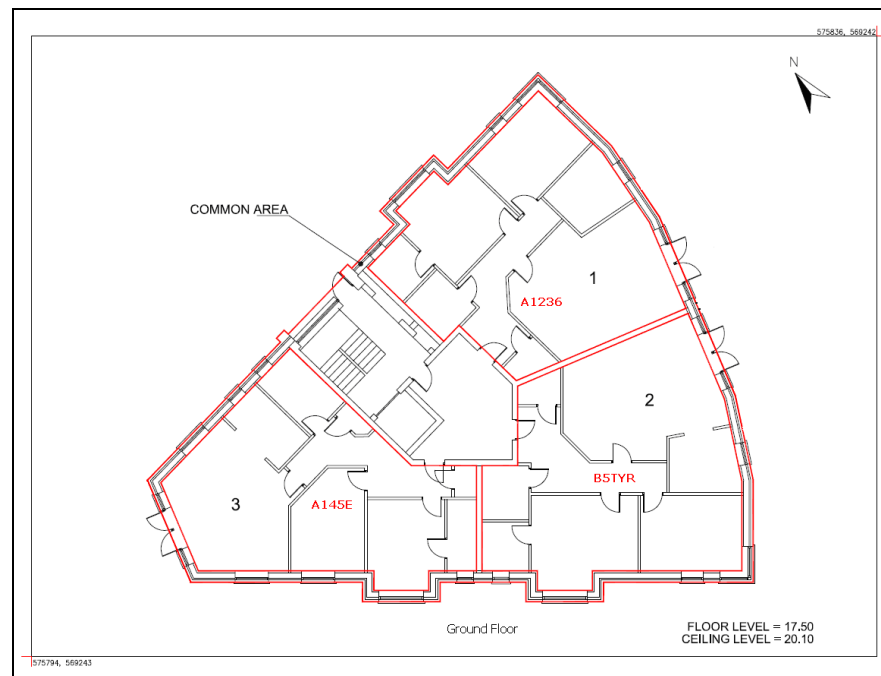


Figure 6 - Example of modified Ground Floor Plan

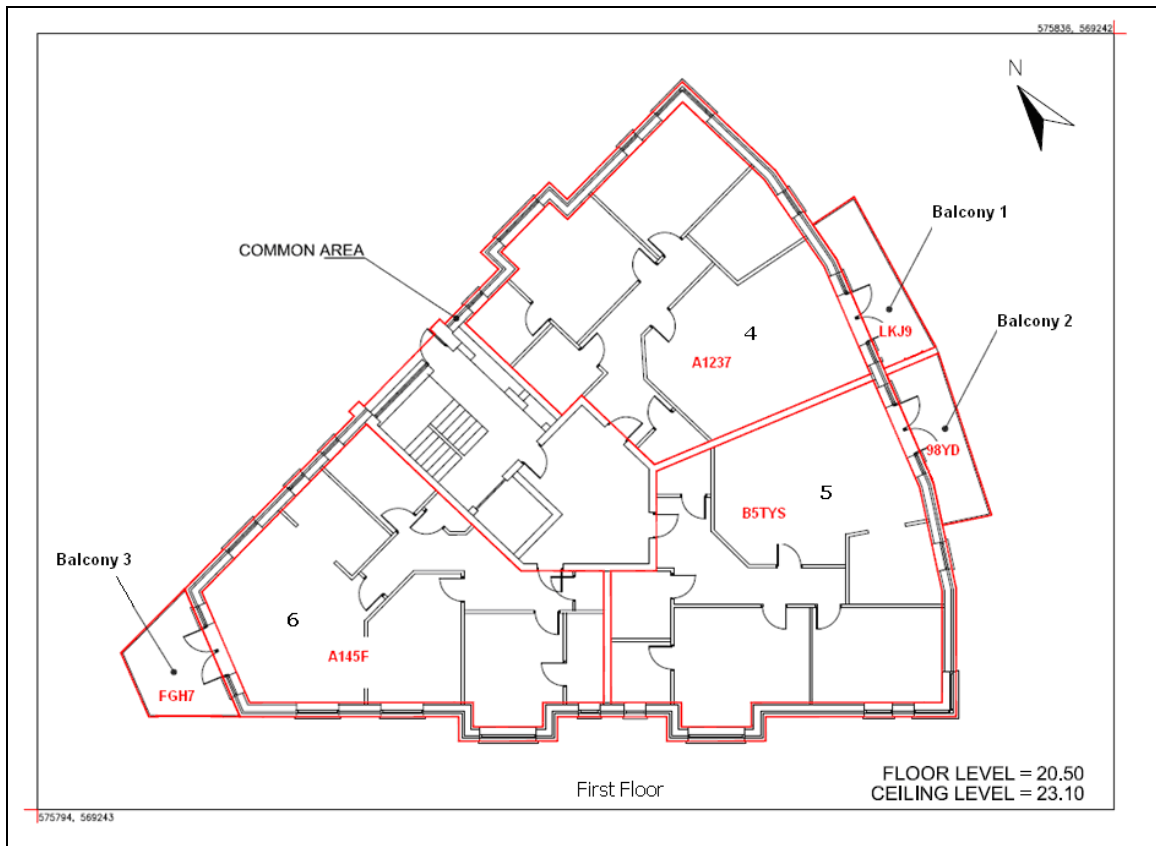


Figure 7 - Example of modified First Floor Plan

1. For all New Developments where title to the residential units will be Leasehold

3.1 Common areas outside of the building(s) must be shown on the Location Map (see Fig. 8).

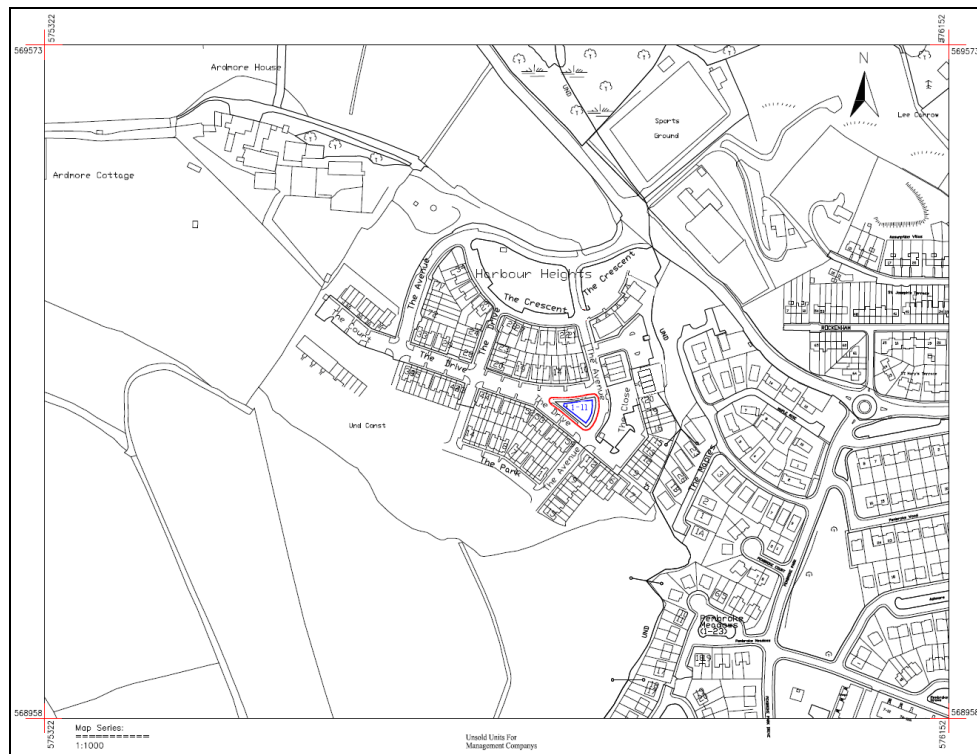


Figure 8 - Location Map

3.2 Common areas within the multi-storey building(s) do not need to be outlined (see Figures 9 & 10) where the title is leasehold.

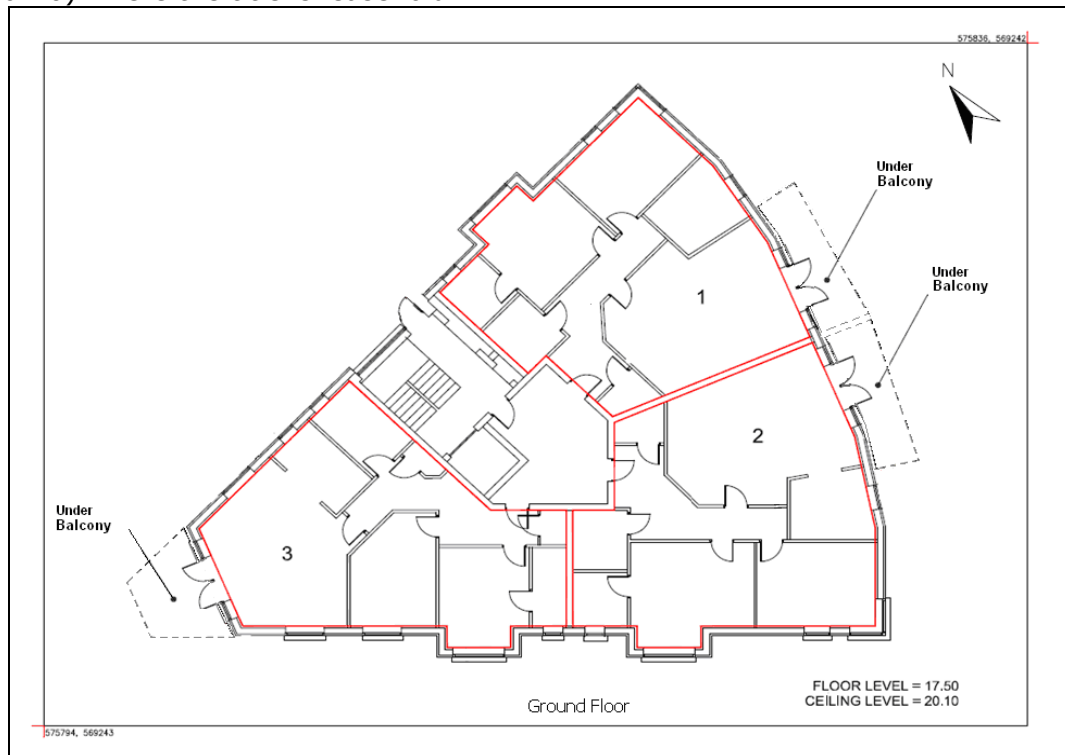


Figure 9 - Ground Floor Plan

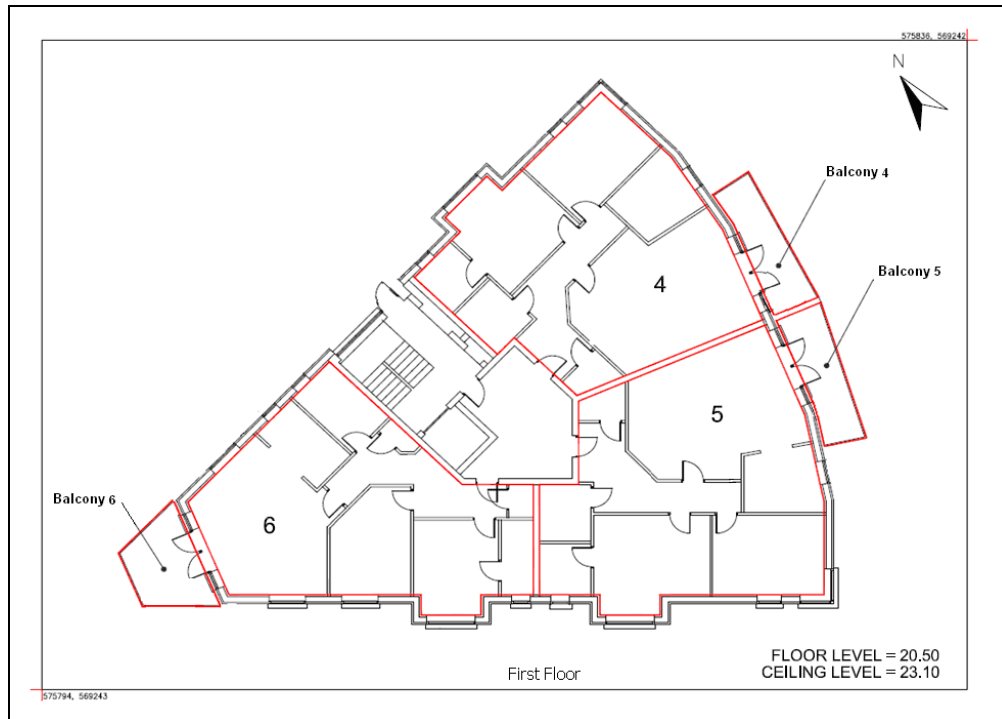


Figure 10 - First Floor Plan

Note: In above example the balcony is included in the lease; where balconies are not included as part of the lease they should not be edged red as they will form part of the common areas.

2. For all new developments where title to the residential units will be Freehold

4.1 Location Map

Common areas to be transferred to OMC edged red with footprint of multi-storey buildings edged blue.

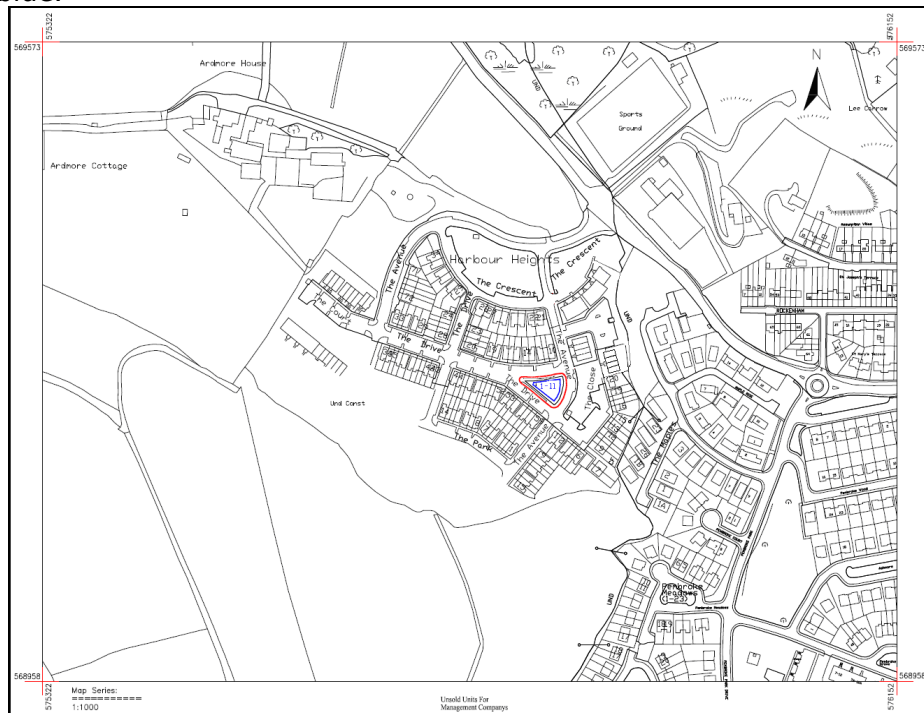


Figure 11 - Location Map with common areas edged red and building footprint edged blue

4.2 Floor Plans

Units shown edged red with common areas

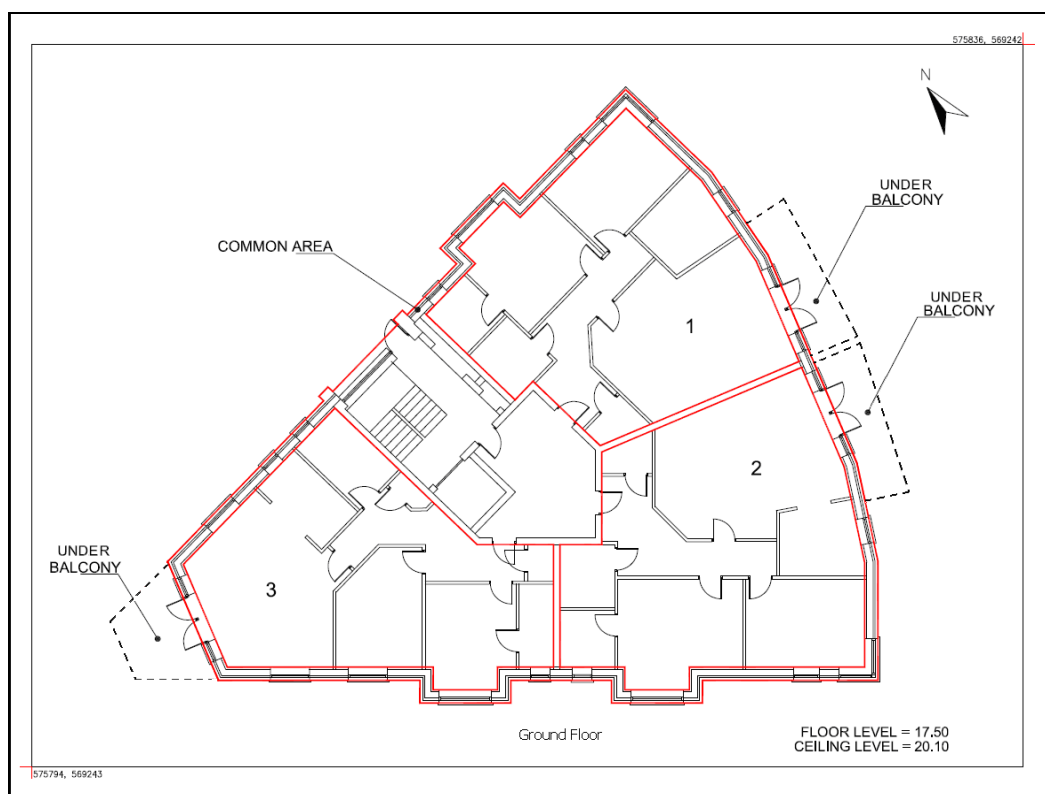


Figure 12 - Example of Ground Floor Plan (Block 1-11)

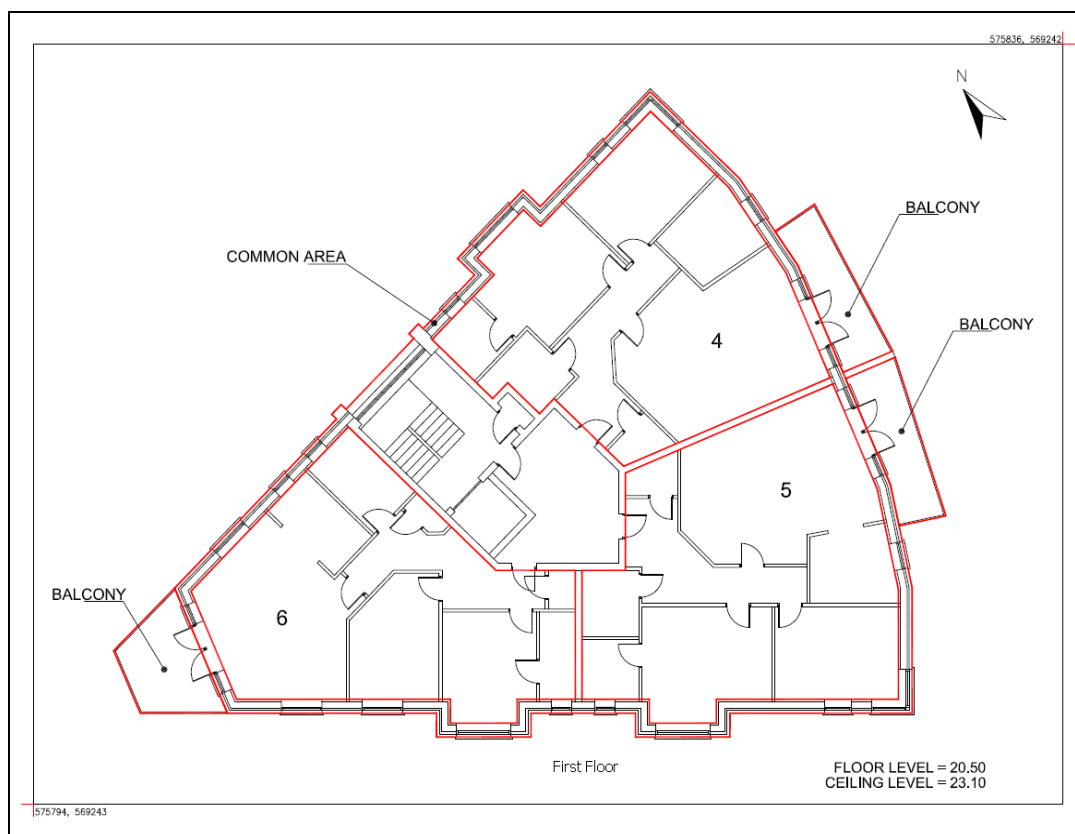


Figure 13 - Example of First Floor Plan (Block 1-11)

3. Definitions in the Act include:-

- “residential unit” is a unit in a multi-unit development which is designed for use and occupation as a house, apartment, flat or other dwelling or is designed and used as a childcare facility and such facility is not intended to primarily share amenities, services and facilities with commercial units in the development.
- “owners’ management company” (“OMC”) means, a company established for the purposes of becoming the owner of the common areas of a multi-unit development and the management, maintenance and repair of such areas and which is a company registered under the Companies Acts;
- “common areas” means all those parts of a multi-unit development designated, or which it is intended to designate, as common areas and including where relevant all structural parts of a building and shall include in particular—
 - a) the external walls, foundations and roofs and internal load bearing walls;
 - b) the entrance halls, landings, lifts, lift shafts, staircases and passages;
 - c) the access roads, footpaths, kerbs, paved, planted and landscaped areas, and boundary walls;
 - d) architectural and water features;
 - e) such other areas which are from time to time provided for common use and enjoyment by the owners of the units their servants, agents, tenants and licensees;
 - f) all ducts and conduits, other than such ducts and conduits within and serving only one unit in the development;
 - g) cisterns, tanks, sewers, drains, pipes, wires, central heating boilers, other than such items within and serving only one unit in the development;