

Streets for Site Classification

The permitted site coverage and plot ratio for a building to be erected on a site is determined according to the class of the site, which in turn depends on the number of streets not less than 4.5m wide that the site abuts.

2. The following guidelines provide assistance in determining what constitutes a street for the purpose of site classification:

- (a) For a piece of land to be considered as a street, it must have the characteristics of a street. Apart from being a passageway, provision of access as a street, other relevant factors such as the presence of any street lighting, paving and drainage would also be taken into consideration.
- (b) Land designated as public amenity areas such as open car parks, public open spaces, and topographical features such as nullahs, sea, and the like is not considered as a street for the purpose of site classification.
- (c) Where there is a physical separation of a site from a street by an intervening strip of land, whether the site can be considered as abutting on that street for the purpose of site classification will depend upon the function, status and ownership of the intervening land.

3. Apart from constituting a street itself, a street has to meet certain criteria before it can be regarded as a street for the purpose of site classification. The Building (Planning) (Amendment) Regulation 2005 (the "Amendment Regulation"), which will come into operation on 31 December 2005, introduces a new regulation 18A setting out such criteria. A "class A site", "class B site" or "class C site" is defined under B(P)R 18A(1) according to the number of "specified street" not less than 4.5m wide that the site abuts. A street is to be regarded as a "specified street" if any of the following circumstances exists with respect to the street:

- (a) The street is vested in Government and maintained by the Highways Department (regulation 18A(3)(a)(i)). This refers to public streets like Nathan Road or Kings Road. If an authorized person has doubt on whether a street is maintained by the Highways Department or not, he may consult the Highways Department directly.

/(b)....

- (b) The street is on land held under the same Government lease as the site, and under the terms of the lease, the lessee has to surrender (when required to do so) the land on which the street is situated to the Government (regulation 18A(3)(a)(ii)). This refers to private streets required to be formed within a lot under lease. The developer or the authorized person shall submit a copy of the land grant or lease documents to substantiate compliance with the requirement for including the subject private street for site classification.

- (c) The street is required to be constructed on unleased Government land by the lessee of the Government lease under which the site is held pursuant to the terms of that lease (regulation 18A(3)(a)(iii)). The developer or the authorized person shall submit a copy of the land grant or lease documents to substantiate compliance with the requirement for including the subject street for site classification.

- (d) The street is on land over which the owner of the site is expressly granted, by or by virtue of an instrument, a right of way exercisable at all times (regulation 18A(3)(a)(iv)). A private street not belonging to the owner of the site under consideration will be accepted for site classification only if a right of way over the street is expressly granted to the owner. A public passage not falling within (a) or (c) above will not be accepted for site classification unless the developer is expressly granted with a right of way over the passage. The developer or the authorized person shall submit a copy of the instrument or deed of right of way to substantiate compliance with the requirement for including the subject street for site classification.

- (e) The street is on land held by the owner of the site under a Government lease (regulation 18A(3)(a)(v)). This refers to a private street which is owned by the owner of the site, irrespective of the site and the street being held under the same lease or not. The developer or the authorized person shall submit evidence indicating that the street will remain as a street for the lifetime of the development. This could take the form of an undertaking registered in the Land Registry to the effect that such street will be assigned as common area for all owners of the development.

- (f) If one or more of the circumstances mentioned in (a) to (e) above exist with respect to different parts of the street, and these parts together constitute the street, such street will also be considered as specified street (regulation 18A(3)(b)). If these parts are separated by intervening strips of land that do not meet any of the above circumstances, each of these parts will be considered as a separate specified street.

4. If a "specified street" for site classification is not an existing one and has to be constructed, it should be completed before the occupation permit for the building on the site is issued. If such street has not been completed by the time an occupation permit is applied for, the Building Authority would refuse to issue the occupation permit under section 21(6)(a) of the Buildings Ordinance (BO). In addition, the "specified street" so created should remain as a street insofar as the buildings relying on it for attaining the site coverage and plot ratio exist. Any subsequent proposal to build over or extinguish such street would result in contravention of the provisions of the BO and such proposal would be disapproved under section 16(1)(d) of the BO.



(H W CHEUNG)
Building Authority

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Index under: Street

Private street

Site classification

Specified street