

**Providing Council with Written Responses to Questions asked at Council
28 February 2019**

1.	<p>Councillor E W Fitzgerald</p> <p>In relation to Councillors Question 4</p> <p>1. Who actually compiles or draws up the 106's - planners, developers or a 3rd party.</p> <p>2. I understand that freeholders are going to be responsible for ensuring the completion of any development should the developer or leaseholder walk away. Is this the case, if so, where does this stand in terms of legal precedent.</p> <p>3. Of the planning applications approved in 2018, how many outstanding 106 agreements are there, and which ones remain outstanding.</p> <p>Response of the Cabinet Member for Delivery</p> <p>1. S106 agreements are prepared by the Council's legal department with input from the Planning Authority and any relevant technical officer from Council departments affected by a particular measure specified within the legal agreement, such as highway improvements and/or affordable housing provision. The details of S106 agreements are discussed with the developer, typically their appointed legal representatives, during drafting stages to ensure the precise wording of the final draft has the agreement of all parties before signing.</p> <p>2. It is a requirement under s.106 of the Town and Country Planning Act 1990 (as substituted by the Planning and Compensation Act 1991) that a Section 106 Planning Obligation must be enforceable by the Local Planning Authority (a) against the person entering into the obligation and (b) against any person deriving title from that person (i.e. a leaseholder). If the leaseholder no longer has an interest because the lease has become forfeit or it has expired, the Freeholder would still be party to and bound by the terms of the s.106 agreement. I note the question implies that there has been a change in policy or legislation but this is not the case as this has been the legal position since s.106 of the Town and Country Planning Act 1990 came into force.</p> <p>3. According to records retained by the Council's legal department there were 22 instructions for s.106 agreements and related legal documentation in 2018. There are outstanding legal agreements yet to be signed relating to the following proposals:</p> <ul style="list-style-type: none"> - Land at Garden Village - 2016/1478 - Dunraven Farm - 2017/0250 - Weobley Castle Farm 2018/1825 - Plot A1 SA1 Swansea Waterfront and Unilateral Undertaking (UU) on same site – 2018/1023 and 2018/0951 (UU) - Christopher Rise, Pontardulais – 2017/1342
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