

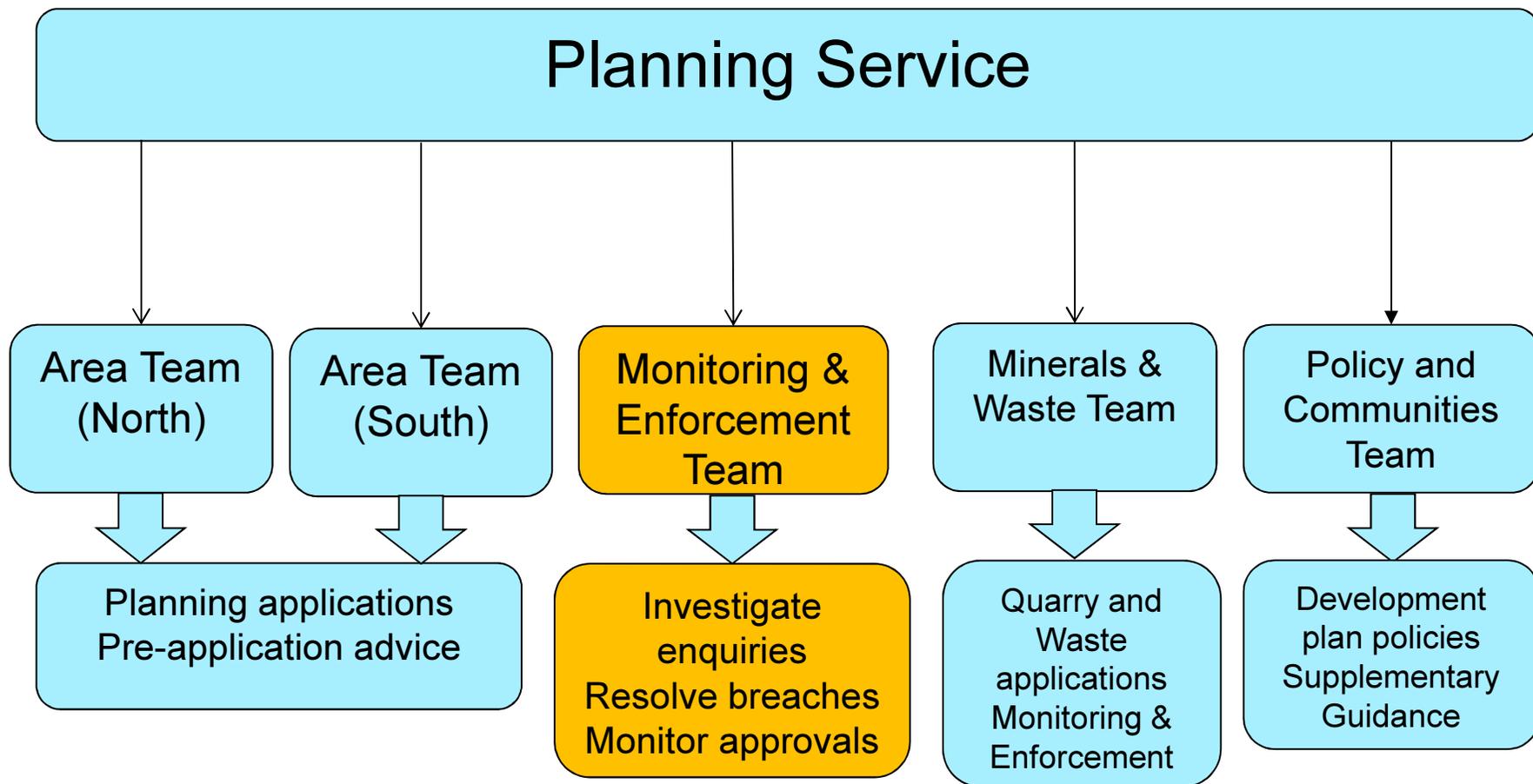


Members' Planning Training 2021

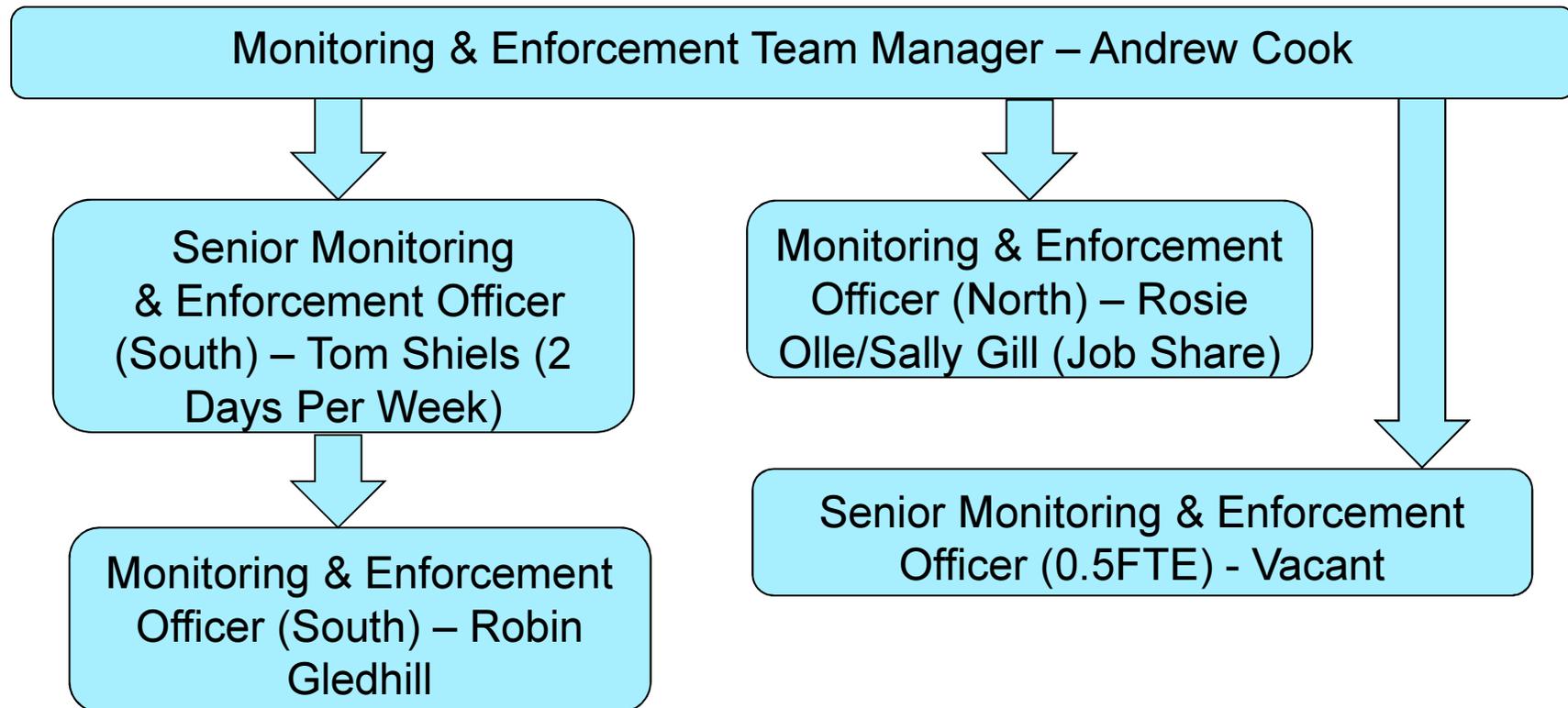
Monitoring and Enforcement

Andrew Cook
Monitoring & Enforcement Manager

Introduction



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- Investigate enquiries about possible breaches of planning control (approx. 480 per year)
- Around 200 breaches per year (40%)
- Approx. 150 breaches resolved each year
- 10-12 formal notices issued each year
- Vast majority of cases resolved without formal action being taken

In the last year:

- 517 enquiries – above average
- 147 breaches (28%) – below average
- 184 breaches resolved – above average
- 11 Formal notices - average

Reporting a possible breach

- Contact Customer & Business Support Team - 01629 816200 or customer.service@peakdistrict.gov.uk

Relevant information

- accurate address, preferably including a postcode.
- a summary of the breach (description of the building works or an overview of the use)
- approximate dimensions of any buildings, parts of buildings or structures
- any relevant dates and times (when did it start? is it complete? times that use take place)
- any relevant planning permissions?

Reporting a possible breach

Relevant information

- details of any vehicles/equipment involved
- name and address of the owner and/ or occupier of the premises and any other persons involved (such as a relevant company name, contractor carrying out works)
- details of the harm caused by the breach of planning control and what has prompted the enquiry
- encourage enquirers to provide contact information so that we get in touch if we require further information or clarification
- personal details of the enquirer will not normally be published or otherwise made available as they are protected by data protection legislation.

What happens next?

- Enquiry logged and given reference number
- Standard acknowledgement letter within 3 days
- Check planning history and details of enquiry. Contact enquirer for further details if necessary
- Visit site – within 4 weeks or 1 week if particularly serious. Speak with persons on site, take photos, measurements and note other relevant details
- Issue Planning Contravention Notice?
- Report back to enquirer within 6 weeks
- No breach of planning control – case closed
- Breach of planning control – enforcement case opened

What is a breach of planning control?

- Building operations
- Changes of use of land and buildings
- Engineering operations (e.g. groundworks, surfacing)
- Breaches of conditions

Other matters

- Advertisements – separate regulations
- Works to listed buildings – internal and external
- Works to protected trees – TPO and CA
- Condition of land adversely affecting amenity – section 215 notice

Is it expedient to take enforcement action?

Section 172(1) of the Town and Country Planning Act 1990 sets out that a LPA can issue an enforcement notice where:

- (a) there has been a breach of planning control; and
- (b) it is **expedient** to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

- Taking enforcement action is discretionary
- Consider any conflict with relevant local policies (Core Strategy, DMPD) and government guidance (NPPF) and the level of any harm caused by the unauthorised development
- If planning application had been made is it likely to have been approved? If yes, then probably not expedient to take enforcement action
- Any action taken must be proportionate with the breach of planning control and the harm caused – LPA can under-enforce

Is it expedient to take enforcement action?

Matters that cannot be considered

- The motives of the developer (for example if the development is thought to be purely speculative)
- Any profit likely to be made by the developer
- Unauthorised development previously carried out by the developer
- Concerns about possible future development of the site
- Any effect on the value of neighbouring properties
- Competition with similar businesses

Current Issues

In response to the pandemic the government has introduced greater flexibility for businesses and encouraged LPAs to '*avoid overzealous interpretations of the rules*'.

'Pop-Up' Campsites and Car Parks

- PD rights for temporary uses of land increased from 28 to 56 days
- Applies until 31 December 2021
- Very difficult to monitor levels of use

Takeaway Food

- Restaurants, cafes, pubs etc can offer takeaway – would normally be a change of use
- Applies until 31 March 2022

Moveable Structures

- New PD right for restaurants, cafes, pubs and 'historic visitor attractions' – allows outdoor shelters and marquees
- Applies until 1 January 2022

Local Enforcement Plan

- The Government has recommended that LPAs consider publishing a LEP to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate
- Authority's LEP was adopted in 2013
- Revised and updated in 2018
- See <http://www.peakdistrict.gov.uk/planning/planning-enforcement>