

## **DELEGATED DECISION**

### **REGENERATION AND LOCAL SERVICES**

**22 November 2018**



**Stiles out of repair on Stanley Footpath 163  
Obstruction on Stanley Footpath 170  
at Dipton  
Highways Act 1980 Section 146 and 143  
notices**

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### **Report of Adrian White – Head of Transport and Contract Services**

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#### **Purpose of the Report**

- 1 To authorise the serving of a legal notices under Section 146 and 143 notices of the Highways Act 1980 and the taking of remedial action to ensure the repair/replacement of four stiles and the removal of an obstruction, should the Notices not be complied with.

#### **Background**

- 2 The issue of stiles out of repair on Footpath 163 and an obstruction on Fp 170 have been brought to the attention of the Council by the public.
- 3 The locations are shown on the attached plans. On Stanley Footpath 163 the stiles at points A-D are in various states of disrepair while on Footpath 170, at point E, there is a barbed wire strand across the footpath (secured to dilapidated fence posts).
- 4 Responsibility for the maintenance of stiles on public rights of way lies with the landowner while obstructing a path is an offence. The Highways Act 1980 Section 146 provides for the Council to serve a Notice on the owner and occupier of the land allowing, for the Council to carry out any remedial work, should the Notice not be complied with. Similarly a Section 143 Notice is able to deal with any obstructions. Both allow for a proportionate means to keep the path network open.
- 5 The rights of way officer has over many months, spoken with, written to and emailed the owner of all the land affected, who has indicated that he would deal with the issues, however, no action has materialised with the paths remaining in an unacceptable condition.

- 6     **Details of any alternative options considered and rejected when making the decision**
- 7     The Section 143 and 146 provisions enable the Highway Authority to be able to deal with 'minor' issues such as this without having to resort to criminal proceedings. Further contact could be made with the owner to encourage compliance, however, he has been given numerous opportunities with no conclusion looming. The serving of a Notice will incentivise the owner to do the work, so avoiding a bill from the Council. Should he not comply the Council can then use its statutory powers to remedy the issues and recover its costs from the owner.

### **Recommendations and Reasons**

- 8     The Council has a duty under the Highways Act 1980 Section 130 'to assert and protect the rights of the public to the use and enjoyment of any highways for which they are the highway authority'. This duty includes taking action to secure adequate maintenance of stiles and the removal of any obstructions or encroachments. The serving of the Notices will achieve a resolution while giving the Council the ability to remove the obstruction under statutory powers. Attempts so far to encourage compliance by the owner have not succeeded.
- 7     The stiles present unreasonable interference to pedestrians and the barbed wire is an obstruction, having to be climb over or ducked under.
- 8     It is recommended that Notices under Sections 146 and 143 of the Highways Act 1980 are served on the owner for the repair of the stiles and removal of the barbed wire respectively. It will be explained to the owner that compliance with the Section 143 Notice could include the provision of a stile, seeing that stock are present and a stile at this location is included on the Definitive Statement.

### **Decision**

- 9     Notices under the Highways Act 1980 Section 143 and 146 be served on the owner.
- 10    If the Notices are not complied with, in the time specified, then remedial default action to be taken by the Council to deal with the issues, including the recovery of reasonable costs.

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**Contact:     Audrey Christie     Tel:     03000 265332**

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### **Background papers**

Communications with owner, photos and public complaints

[\\DUCH-3900\\Environment\\ENV-SYS2\\Rights of Way\\Cams\\PathFolders\\Stanley 119\\163\\2018 Dawson stiles obstructions](#)

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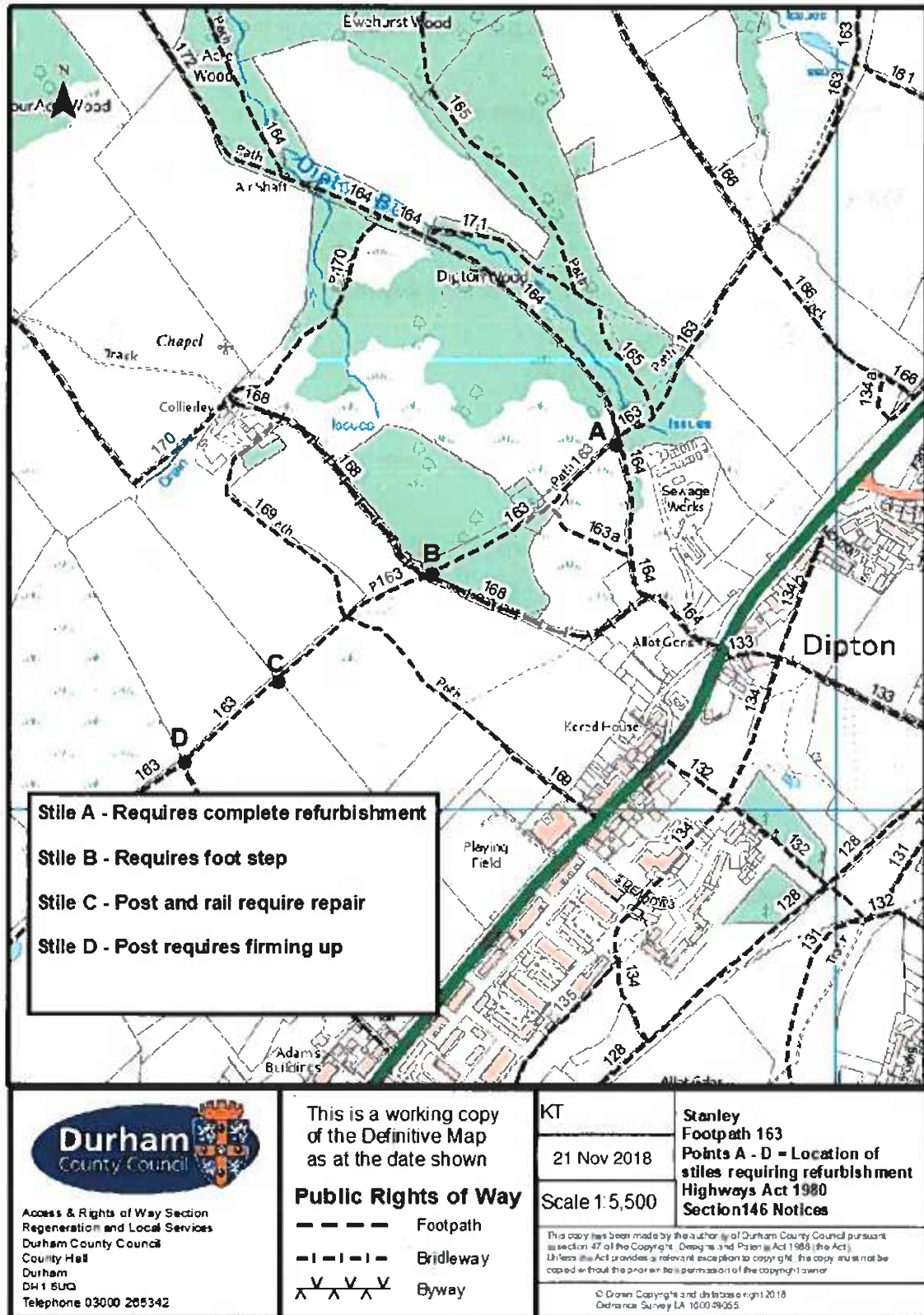
**Appendix 1: Implications**

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<b>Finance</b>	Enforcement of highways legislation is a statutory duty but costs of remedial work can be reclaimed from person/s responsible for an obstruction
<b>Staffing</b>	Routine officer responsibilities
<b>Risk</b>	Minimal
<b>Equality and Diversity / Public Sector Equality Duty</b> None	
<b>Accommodation</b>	None
<b>Crime and Disorder</b>	The Notices seek compliance with legislation.
<b>Human Rights</b>	Highways law is primary legislation and sets out what constitutes an offence and the remedies available for the Council. This duty is not outweighed by individual human rights.
<b>Consultation</b>	None
<b>Procurement</b>	None
<b>Disability Issues</b>	No direct impact
<b>Legal Implications</b>	If the Notices are not complied with remedial action will need to be taken to deal with the stiles and the obstruction and the costs recovered from the owner

## Stanley Footpath 163

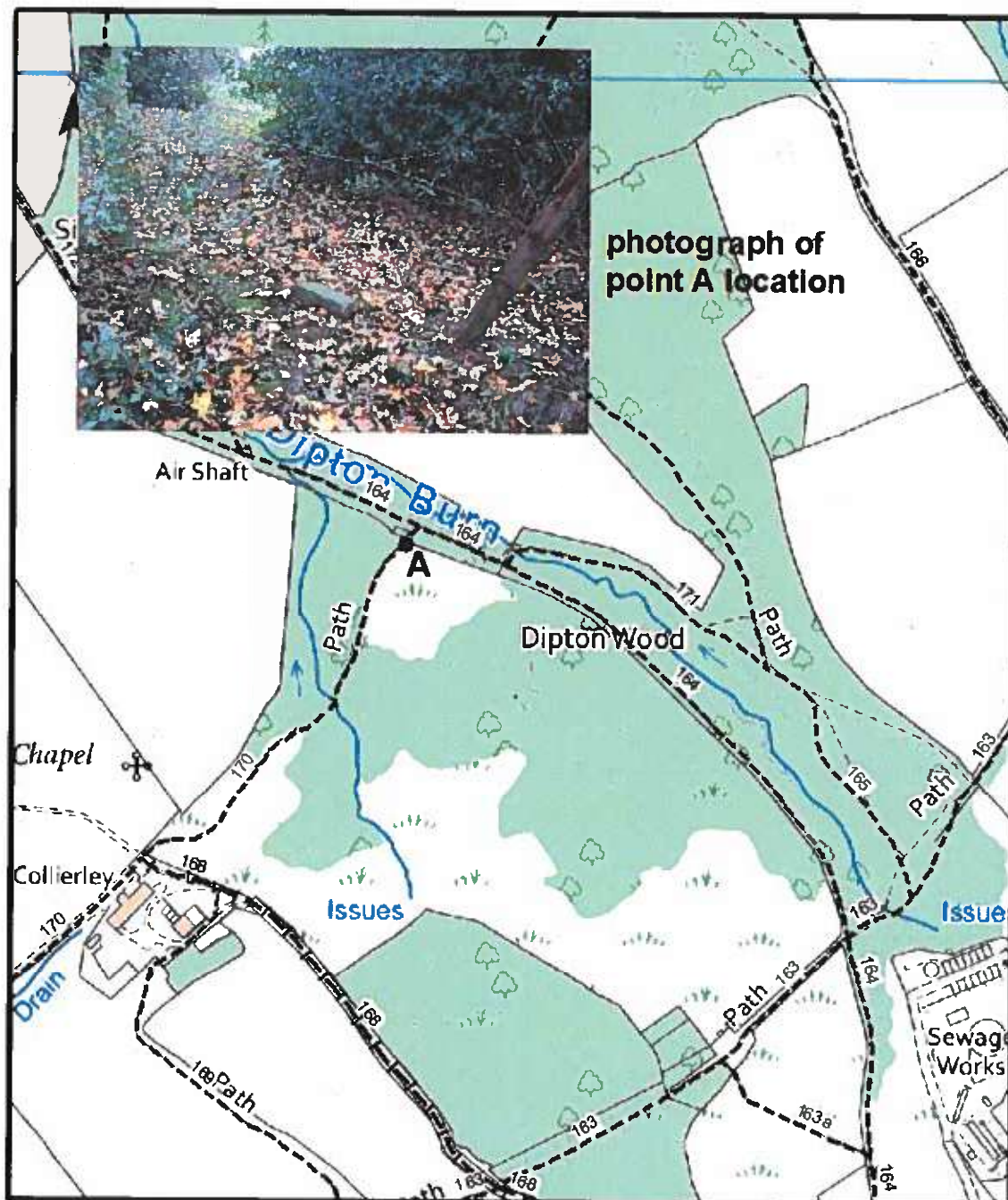
Plan showing locations of 'out of repair' stiles – points A - D







# Stanley Footpath 170

Plan showing location of barbed wire – point E



 <b>Durham</b> County Council  Access & Rights of Way Section Regeneration and Local Services Durham County Council County Hall Durham DH1 5UD Telephone 03000 265342	This is a working copy of the Definitive Map as at the date shown		KT	<b>Stanley Footpath 170</b> <b>Point A = Location where new stile is required</b> <b>Highways Act 1980</b> <b>Section 143 Notice</b>
	<b>Public Rights of Way</b>  — — — — Footpath  -   -   -   Bridleway   Byway		21 Nov 2018	
			Scale 1:3,300	
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