



## **Objection to The Environment Agency's application to vary the Scheme for the operation of the Leigh Flood Storage Area**

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Photograph from December 2013 when our studio and gym buildings were flooded.

Taken after the Environment Agency operated the Leigh Barrier impounding the existing Flood Storage Area to its maximum depth of 28.05 metres AOD.

July 8<sup>th</sup>, 2020

## 1. Introduction

We moved into [REDACTED] early in 2013.

In order to provide a suitable environment for home working, music production and exercise, in the summer of 2013, we converted two adjoining outbuildings in our garden to be fit for these purposes. In addition, we erected a small garden shed to provide storage for a lawn mower and gardening tools. All of these structures lie outside the area marked in blue on our deeds which the EA is not entitled to use for floodwater storage.

In December 2013, following operation of the Leigh Barrier both the adjoined studio/gym and the small shed were flooded.

In December 2019 we submitted a claim for compensation for which the EA admitted liability and settled.

## 2. Reasons for Objection

Whilst we fully understand the need for enhancements to the Leigh FSA we strongly object to this application. Our primary reasons for this are as follows:

- 2.1. It would appear that the EA is relying solely on computer modelling to predict the impact of changes to the flood storage area. We do not accept that this can provide an accurate picture of the effect on Penshurst given the vast number of variables present during an actual flood event.
- 2.2. Despite past flood events, no monitoring has been put in place to understand the actual effect of operating the flood barrier on flood levels in Penshurst, below the confluence of the rivers Medway and Eden area. The EA relies on measurements from upstream at Colliers Land Bridge for the River Medway and Vexour Bridge for the River Eden. These measurements are not a substitute for proper local monitoring.
- 2.3. The EA's application concludes that the proposed changes to the height of the flood barrier will have **no impact** on Penshurst in terms of depth or duration of flooding. Given the lack of empirical data we do not accept this assertion.
- 2.4. In our experience as residents, flooding is most definitely exacerbated by the operation of the Leigh barrier. An increase in the height of the barrier must represent an increased risk to our outbuildings and to Penshurst in general.
- 2.5. In the EA's Strategic Flood Policy it states that 1 in 100 years plus climate change is the scenario that should be defended against. Throughout this project the EA have always quoted 1 in 100 years plus climate change as the scenario used. In the application the EA have quoted a 1 in 75 years scenario. This conflicts with their own National Guidance.

- 2.6. The application states that since 2011 the EA have only used the FSA when the flow in the River Medway exceeds 75 cubic metres per second. The current Scheme allows the FSA to be used when the rate of flow exceeds 35 cubic metres per second and this figure has been explicitly retained in the revised Scheme. This represents a significant risk to Penshurst in the event the EA reverted to using the lower flow rate in combination with an increase to the height of the Leigh barrier.
- 2.7. Throughout the consultation period, communications have been very erratic and inconsistent. We do not believe that we have been party to all available information throughout the process. For example, we did not receive the results of GPS altitude measurements conducted on our property in the Summer of 2019 until June this year.
- 2.8. Despite the consultation process, we have not been given any insight into the EA's intentions with respect to any actions that could be taken to mitigate future damage to our property.
- 2.9. The application contains various letters of support. However, no-one from any of the affected upstream communities has been asked to comment. This is biased and unacceptable.
- 2.10. The EA have not met the requirements of Section 17, Part II (e) of the River Medway (Flood Relief) Act 1976. The Act requires the EA to supply a copy of the revised scheme to "The Specified Interests" **BEFORE** submitting the scheme to the Minister for approval. The EA failed to do this. The scheme was submitted on the 10<sup>th</sup> June, but we did not receive the copy until after this, denying us the opportunity to (a) discuss the revised scheme with the EA and (b) to come to an agreement with them. Furthermore, the copy supplied is not the same as that which has been submitted to the Minister. The revised scheme on the reverse of the letter dated 8<sup>th</sup> June contains 5 paragraphs, whereas the revised scheme submitted contains 4 paragraphs. Again, as the scheme had already been submitted, we were denied an opportunity to (a) discuss the revised scheme with the EA and (b) to come to an agreement with them.

### 3. Summary

We believe the EA have not acted in good faith in terms of addressing the additional risk posed to our property by this application and they have not taken on board the legitimate concerns and interests of the residents of Penshurst.

The process they have followed has clearly been flawed in several areas versus the requirements of the River Medway (Flood Relief) Act 1976.

There is an unacceptable level of reliance on computer modelling versus real world evidence and measurement.

During the consultation period there were occasional indications that the EA might be considering mitigating action to prevent the cyclic recurrence of damage to and compensation for our property but nothing material has come of this.

The solution to our flooding problems would be to simply raise our adjoined main outbuilding (studio + gym) by approximately 1 metre.

We would have been prepared to negotiate a revised easement in exchange for funding to enable this work to be carried out and given the requisite planning permission by Sevenoaks District Council, rather than face the misery and disruption caused by flooding due to future operation of the Leigh barrier.

## **4. Penshurst Village**

### **4.1. Risk of Death**

Rogues Hill is a major route into and through the Village. It is the route used by the Fire Brigade, Police and Ambulance Service responding to emergency calls. It is also used by school buses and village traffic. When the EA impound the FSA this road floods to a depth of up to 1 metre, making it impassable, yet vehicles still attempt to pass. Raising the level of the FSA can only increase this flooding. This would create a **Moral Hazard**, with the potential for death. The water flow is known to be in excess of 70 cubic metres per second and should a school bus attempt to go through the flood, it could easily be carried away downstream. This risk of multiple death is high. The EA have merely said that it is the responsibility of the Highways Agency. The **Grenfell disaster** has taught us that Moral Hazards can prove fatal years later for many innocent members of the public.

### **4.2. Disregard for Penshurst Estate Residents**

When the Leigh FSA was built in 1982 the EA's predecessor identified the risk of access to properties on the Penshurst Estate, and paid for the construction of a concrete road to ensure safe access. The EA's proposal to raise the height of the FSA now places access via that same concrete road at risk. On Page 21 the EA deny this problem, but say there may be scope to help. This is typical of the condescending attitude throughout both communications and the application. They have failed to provide a solution to a problem of their creation. A problem that affects not just six residential properties and farm buildings but also a nursery school with many children in its care.

### **4.3. Disregard for High Street Properties**

Flooding will affect properties on High Street. There are buildings used for warehousing, hobbies and garages to the rear of these properties. Increased flooding will cause damage to property and access problems.

## Appendix: Garden to the rear of Colquhouns Cottage

### Layout of Garden Outbuildings

There are two outbuildings that were affected by the floodwaters:

#### 1) Building A

During 2013 this building was converted from a utility shed to form two separate studios:

- a. Combined office and music studio with electricity, flooring, heating and insulation.  
This office forms the larger part of building A and is at a higher level (~30cm) than the lower part.
- b. Fitness studio and storage area with electricity, flooring, heating and insulation.

#### 2) Building B

A shed erected during 2013 for storage of lawn mower, strimmer and other gardening tools plus general storage.



The following pictures show the extent of the flood damage with respect to the above structures:

Building A



On the right is the main office / studio. To the left is the lower fitness / storage area:





Flooding in the main office area:







Floodwater in the lower fitness / storage area:



