

A DISPUTE ON THE RIVER LEA AT STANSTEAD

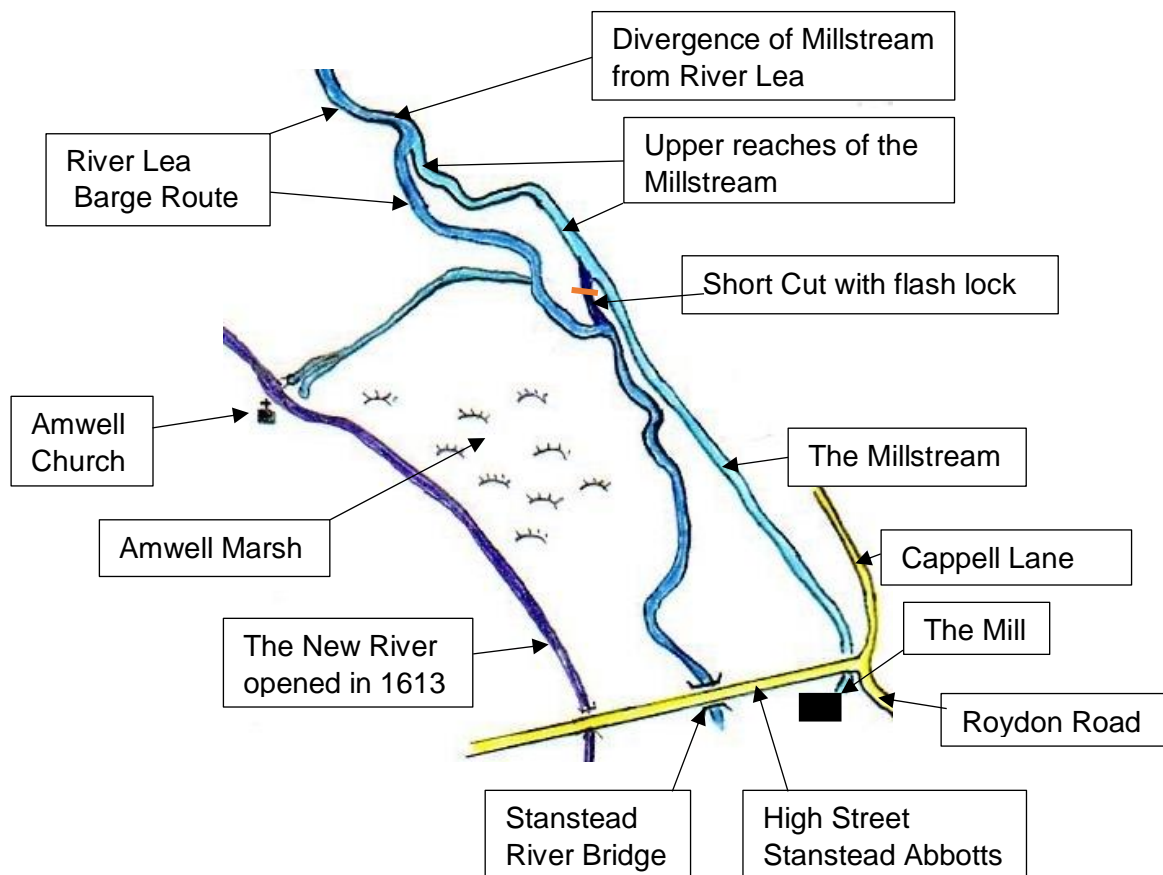
1700 TO 1753

BY
STUART MOYE

This article attempts to describe the reasons which underlay the dispute between the mill owner at Stanstead Abbots and those barge owners and the river authorities whose main concerns focused on maintaining an adequate navigation along the River Lea between Ware and London. It also endeavours to give an account of the thinking and actions taken by both sides during the conflict which lasted for almost half a century. In the end a resolution was found but was not to the liking of all of those involved. In any case a few years after it was all over extensive changes to the Lea Navigation meant that the issues which meant so much to some of those involved in the dispute were no longer relevant and as such were consigned to history.

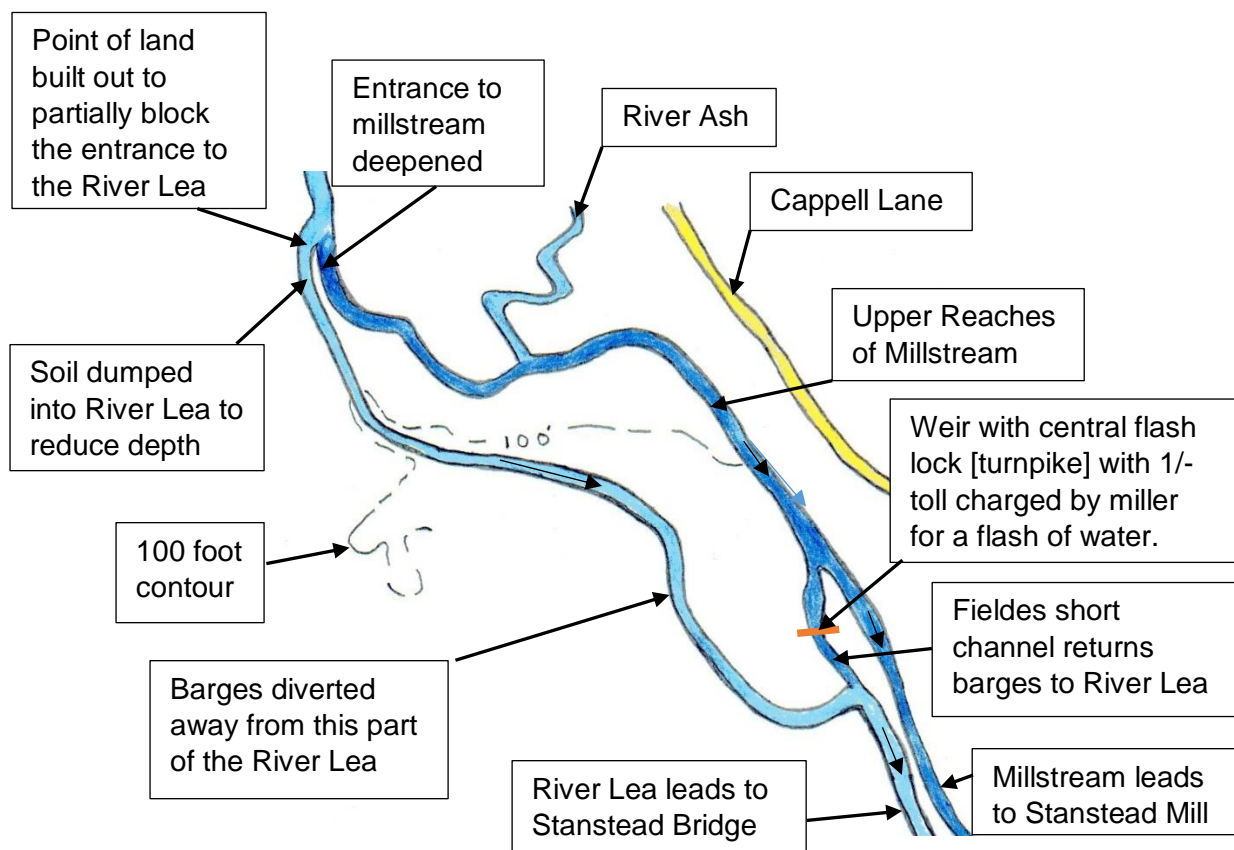
By 1700 there was a rising demand for more barge traffic on the river and more power to drive the water mills. This was causing an increasing demand for water and an inevitable conflict between the millers and the bargees. Upstream of Stanstead Abbots the water in the River Lea was split to flow both down the barge navigation and also down the millstream to drive the watermill in the village. In the summer months, particularly in dryer summers, it was becoming difficult to provide adequate water for both requirements. Even before 1700 in the driest of summers the barges had used the upper reaches of the millstream before returning to the navigation channel via a short Cut along which there was a flash lock.

NAVIGATION RIVER AND MILLSTREAM 1700 TO 1743



The owner of the mill and the millstream was the Lord of the Manor Sir Edmund Field of Stanstead Bury and the miller was Mr Michael Pepper. They had it appears created a flash lock in the central part of the weir located in the short channel between the millstream and the navigation some years before 1700. This had been used by barges during dry summer periods when water in the river was low. However it was not until 1705/06 when they started to divert the barges from the navigation channel into the upper reaches of the millstream on a more permanent basis. The Bargees began to find the navigation channel was becoming mysteriously silted up close to where the millstream diverged and they increasingly found there was insufficient depth of water for their barges in the River Lea. The suspicion was of course that the Miller's workmen had been throwing soil into the navigation to make it too shallow for barges to pass. In time the entrance to the River Lea barge route was partially blocked by a point of land being built out into the channel partially obstructing access to the traditional barge route. Having now been forced to use the upper reaches of the Millstream the Bargees then found the miller began charging 1/- per barge for a flash of water as they passed through the Miller's turnpike lock.

NAVIGATION ALTERATIONS EARLY 1700s



Notes

1. That part of the River Lea that the barges had been diverted away from, no longer exists today having been dug away when the large lake in the Great Amwell Nature Reserve was excavated.
2. The above navigation arrangements remained in force until 1743.

This toll was particularly disliked by the Bargees as there was a long term disagreement about the legality of charging for use of the navigation. The Bargee's case rested on the Lea Navigation Act of Parliament dating from 1571 in which there was a clause which made it clear that boats '*shall have free passage through the said river, as well as in the new Cut as the older River, without interruption or molestation*'. The apparent illegality of these tolls at turnpikes had been much discussed in the latter part of the previous century but without any outcome. No doubt the Bargees expressed their displeasure frequently to Mr Pepper's workers as they handed over their shillings. In fact the short cut and flash lock was owned by Sir Edmund Fielde and as such he could argue that they were not part of the statutory navigation as laid down in the 1571 Act. In which case it was quite in order for a toll to be charged. In any case the 1/- charge continued to be levied and the diversion of the barges along the upper reaches of the millstream was to continue for almost 40 years.

Fielde and Pepper have tended to be regarded as the antagonists on the river due to their actions at this time. In fairness they were, at least at first, attempting to ensure that limited water supplies could be managed in a way that could adequately serve both the increasing needs of the mill wheel and the navigation. However they were to take full control of the water and then impose a charge on the bargees by introducing a toll at their turnpike. In time it appears they made a charge just to pass through the lock. They were not alone in the respect of a toll as barges travelling from Ware to London were subject to pay a toll at numerous flash locks and turnpikes, adding up to a considerable sum on each trip. The two key issues that the bargees somewhat surprisingly did not contest at this time were that it was illegal for the navigable channel to be deliberately shallowed by the throwing in of soil and by this means to also divert the navigation down the head waters of their millstream.



A modern view of the upper reaches of the millstream once used by Fielde and Pepper as a diversionary route for the River Lea barge traffic between Ware and London.

The managing of the River Lea navigation was carried out by Commissioners of Sewers that were appointed from time to time. They were empowered among other things to improve and maintain the navigation, sort out disputes and enforce changes when necessary. Today one might expect such a body to sit regularly but this was not the case in the early 1700s. Indeed there was no active Commission of Sewers on the Lea between 1702 and 1719 which may well have been an encouragement to Fielde and Pepper to take the course of action they did. During the periods of time between when Commissioners were active barge and mill owners were left to fend for themselves, each looking after their own vested interests. It appears that in the early 1700s until 1719 the bargees although undoubtedly unhappy about the arrangements at Stanstead reluctantly accepted the situation.

In 1719 Commissioners of Sewers were appointed to investigate issues on the River Lea and take actions as they felt fit. As part of their work a survey was carried out in April 1720 of the Lea Barge Navigation including matters at Stanstead. Later that year a Court of Sewers convened by the Commissioners heard evidence from barge owners and bargees that they had been forced to use the millstream route and then were charged 1/- at the miller's turnpike. The outcome was that the Commissioners ordered that the legal navigation be reopened as soon as possible. Somewhat unusually for a Commissioners of Sewers by November 1720, only one year after they had been appointed, decided their work was done. Despite legally being able to continue till the death of the monarch in 1727 [George I] the Commissioners were never to meet again. Not surprisingly the bargees continued to be forced down the head waters of the millstream at Stanstead and the 1/- toll continued to be collected. In the absence of a Commission of Sewers the bargees resumed their funding and the maintenance of the navigation and the millers continued to protect their interests. There seems to have been no change in the arrangements prevailing on the river at Stanstead during the time leading up to the appointment of the next Commission of Sewers in 1739.

1719 turned out to be quite an eventful year starting with the death of Sir Edmund Field in February with his eldest son and heir Thomas Fielde sadly passing away in early March. The next in line was Edmund who did not reach his majority until 1725 requiring his mother to take over the reins of the family business for the intervening years. Edmund died in 1729 and Mrs Fielde once again stepped in until William turned 21 years of age in 1731. William Fielde was Lord of the Manor from 1731 until his death in 1762 and was to play a major part in the matters relating to the river at Stanstead Abbots. The millers who ran the watermill owned by the Fielde family were the Pepper family. In 1727 Michael Pepper died and was succeeded by his son also Michael. However the son was only 12 years of age and his mother took control of the milling business until he was 21 in 1736. It was therefore William Field and Michael Pepper junior who held the reins of power when matters on the river came to a head in the early 1740s.

During the 1730s the barge owners had discussed at length a way in which funding for the maintenance of the navigation could be created and relieve them of the costs. This resulted in the Act of 1739 which allowed their wishes to be met but only authorised improvements on the Lea between Hertford and Ware. Elsewhere on the river it was a case of maintaining the existing navigation channel. Changes at Stanstead therefore had to wait until the work of the Commission of Sewers, also created in 1739, could address the issues. In addition the traditional ad hoc arrangement whereby the barge owners funded the maintenance of the navigation was to be replaced by a Commissioner's surveyor who would be responsible for the work funded by the River Lea Trustees. It wasn't until August 1741 that the Commissioners heard the very long standing complaints regarding the situation at Stanstead. Having explained the now nearly 40 year long dispute the barge owners requested that the 1720 orders to reinstate the legal navigation along the River Lea channel be implemented. This of course meant that the diversion along the upper reaches of the millstream would be abandoned causing Fielde and Pepper to lose control over the water flowing to their mill.

The Commissioners responded to this request by inviting Fielde and Pepper to attend their next meeting. At that meeting held in June 1842 it was explained to them that the Commission intended to re issue the 1720 order. It is worth noting that Fielde was a River Lea Trustee himself so the situation was somewhat delicate. Fielde strongly countered with a suggestion that things were left as they were but he would no longer charge a toll. Two months later Fielde further proposed that he would personally pay for the necessary Act of Parliament to legally confirm the arrangements. This is a clear indicator of the importance that Fielde placed on being able to control the water in the Lea and ability to direct water in sufficient quantity down the millstream. The Commissioners took legal advice on this matter and discovered that an Act of Parliament was indeed essential, but that it would be additionally expensive because several of the properties affected were entailed. Not surprisingly Fielde immediately withdrew his proposals to fund the cost of such an Act of Parliament. This of course meant that the last chance Fielde had of making his diversionary route legal had been lost. The Commissioners responded by rapidly issuing instructions that the traditional route of the navigation was to be reopened as soon as possible.



*A view from the banks of the millstream looking towards Stanstead.
It is this watercourse that Fielde wanted to ensure could carry as much water
as possible to his mill in the village. On the left can be seen houses in Cappell Lane
with St Andrews Church and adjacent houses visible to the right of the central tree.*

The Commission employed William Whittenbury as their surveyor having appointed him at their very first meeting in 1739. It was to Whittenbury that the Commission turned to carry out a survey of what was required to reopen the legal navigation at Stanstead. Also to control the flow of water in the river whilst still ensuring the mill could still be provided with a share of the water. This action was taken quickly and is an indication that this Commission of Sewers was going to be more proactive than perhaps the 1719 Commission had been perceived to be.

On the 3rd November 1742 the Court of Sewers for the Navigable River Lee issued orders for Whittenbury. The extract from the minutes of the meeting below show these orders.

WHITTENBURY'S INSTRUCTIONS

The instructions issued to Whittenbury were very carefully worded to ensure that his recommendations concerning the siting of the new turnpike would meet the Trustees requirements. These being to reopen the traditional navigation along the channel of the Lea and to regain control of the flow of water in the River Lea.

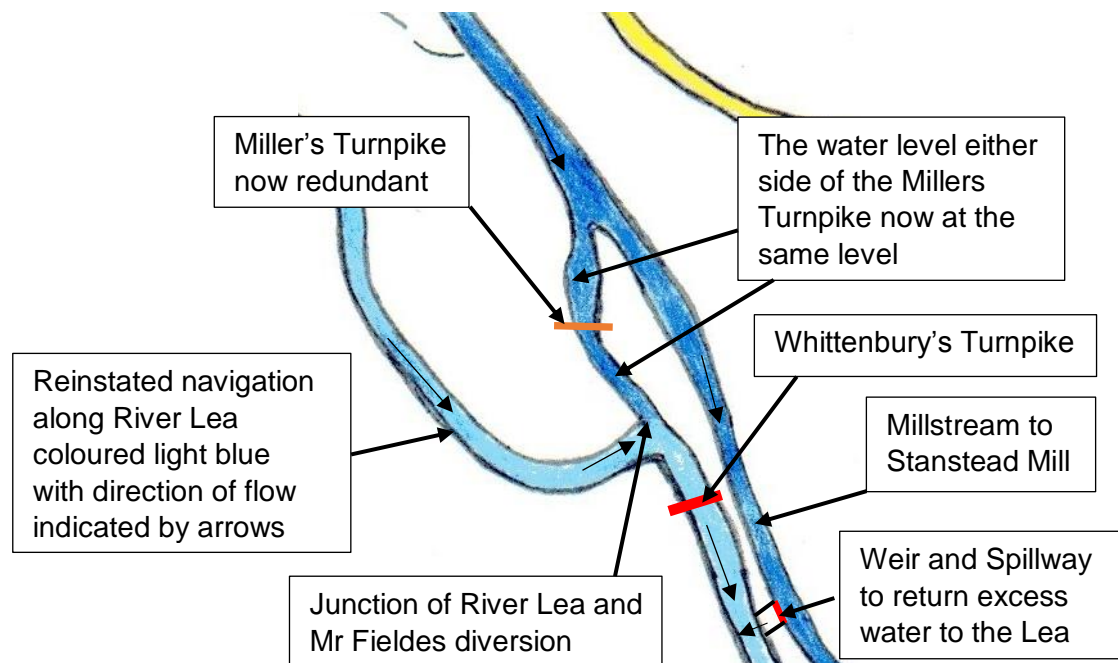
calculated would require the water to be held back to a depth of 4' 6" in order that the water level would be the same as that in the pen of water held back by the Millers Turnpike.

The Commissioners accepted Whittenbury's report and put the work out to tender. There were two tenders submitted:-

- 1 Whittenbury proposed a substantial turnpike at £460, a lighter construction at £340 or some negotiated position in between.
- 2 Andrew Speller based in Hunsdon made a tender at £509 19s 3d

After consultation with the Trustees and consulting Mr Fielde the Commissioners gave Whittenbury the contract at the most substantial level for £460. The work was carried out rapidly and the barges were once more using the River Lea route, within 3 months.

WHITTENBURY'S TURNPIKE



The lock was not handed over to the miller to operate as elsewhere on the Lea as both Fielde and Pepper had not been supportive of the scheme and the bargees were firmly set against Fielde or Pepper having any control over its use. The Turnpike soon began to be referred to as the Trustees Turnpike or Stanstead Turnpike. There was however never any toll levied at this flash lock as the Trustees were not entitled to do so under the 1571 Act. When the central guillotine gate was raised it provided a flash of water to allow barges to pass the shallows just downstream. However when this occurred the water available to go down the millstream was much reduced and milling had to cease until a sufficient level of water had built up. This delay it was claimed by Fielde could be a period of several hours. A lock keeper was appointed to operate the lock but lived away from the site and was therefore not in attendance all the time and thus unable to prevent misuse of the lock gate and weirs at those times.



The six gates weir which for most of the C20th allowed surplus water to flow from the Millstream in to the Old River Lea via a spillway. This was located at or close to the location of the 1743 spillway shown on the Whittenbury's Turnpike map above.



Today's fixed crest weir close to the site of the Miller's Turnpike which existed from before 1700 until 1743

It was not long before Fielde began to organise a campaign against the new arrangements. A complaint was made in September 1743 in which it was claimed that the mill sluices had been left open so that the water level in the river dropped so much that barges were held up for nearly two weeks. On other occasions the Trustees Lock was said to have been left open by the bargees leaving little water in the river for barges or milling. Why the bargees would do such a thing so much at odds with their best interests does not seem to have been explained. It was not long before Fielde was raising many complaints which included within a long list, the damage to his land, great quantities of soil dumped on his land from the scouring of the River Lea and damage to his fishing weirs. He also claimed that he had never agreed to the new scheme despite the Trustees interpreting his earlier correspondence on the matter to that effect. Fielde had many local supporters with Pepper also presenting a list of concerns regarding the detrimental effect the new arrangements were having on the operation of the mill. Thomas Hankin a village maltster and barge owner also raised issues related to the importance of adequate water for the malting trade at Stanstead and the failure of the new system to adequately provide flashes of water for his barges. This obviously co-ordinated effort was clearly designed to try and force the reintroduction of the diversion of the navigation down the headwaters of the millstream. The complaints against the bargees not correctly operating the lock in the absence of the Trustees lock keeper persisted. This led to Whittenbury being ordered to erect a "living room" over the weir which would enclose the controlling apparatus. This order was made in April 1746 with a cost not to exceed £12. The Keeper was in attendance more often once the room was built and additionally nobody could operate the lock or weirs when he was not in attendance. This action by the Trustees effectively reduced the opportunities for mischief to be perpetrated by those who might wish to discredit the Trustees Turnpike.



This view from the early 1900s was taken looking upstream from the bank of the millstream. The River Lea can be seen on the left and the millstream at a higher level to the right. The Miller's Turnpike was located close to the buildings seen in the middle distance and the Trustees Turnpike somewhat closer beyond the bend in the Lea to the left of the picture. The white posts beyond the man standing on the footpath in the centre of the picture marks the position of the six gates weir and the spillway which regulated the water level in the millstream.

In October 1748 Fielde once again raised a wide range of complaints arising from the turnpike and losses of toll income and compensation for damages. The Trustees replied robustly stating that the turnpike had been built for the benefit of the navigation which it was able to do admirably. At this point the Trustees sought legal advice and was advised that they had every right to erect the turnpike and no loss of tolls by a third party caused by its erection would legally merit payment of compensation. Fielde was informed of this advice from the Attorney General. He did not reply for a year during which time he had widened and deepened the millstream. This would have increased the flow capacity of the millstream and thus increase the power available at the mill wheel.

The dispute continued which led to the Trustees setting up a committee to deal with the ongoing problems at Stanstead. This committee came up with a change of policy which would allow the joint funding of an Act of Parliament to reinstate the diversion of the navigation down the head waters of the millstream. It included the moving of the Trustees Turnpike to a position downstream of Stanstead Bridge which would have a toll that would pay for both the relocated Trustee's turnpike and the Miller's reinstated turnpike. Fielde rejected this plan and rather ungraciously pointed out that no compensation for his past losses and damages had been mentioned in this arrangement.

The Trustees expressed some surprise at Fielde's attitude in their response which seems to have triggered Fielde to resort to the law courts. He immediately issued writs against five of the Trustees, Samuel Wood [the keeper at the turnpike], Whittenbury and his assistant Richard Allan. The case was submitted to the Kings Bench claiming £3,000 compensation. However Fielde then almost immediately attempted to make an out of court settlement which consisted of much of what he had just turned down plus a demand for a £25 per year payment for the loss of tolls since 1743 and presumably into the future. He subsequently retracted this demand if all else was agreed. His advances were rejected by confident Trustees and the whole matter went to court in November 1753. Fielde was awarded £80 for damages from flooding and erosion of land from the new turnpike. He was awarded costs of £282 but had to pay costs himself of £25 on another issue.

A mightily disgusted Fielde took his revenge a few days later by opening the sluices at his mill allowing the water in the millstream and river to drain away so much that barges were stranded on the mud at the wharf just below Stanstead Bridge. The Trustees responded by deepening the river from Stanstead Bridge downstream to Stanstead Weir and strengthened the banks with timber rails and vertical stakes. This effectively prevented a repeat of the barges being stranded by a similar protest by Fielde and saw the end of the dispute that had lasted so long. As for William Fielde who had not attended a Trustees meeting, as a Trustee, since 1843 did not do so again until a few months before his death in 1862. Four years later the 1766 River Lea Navigation Act was passed which led to the construction of the Stanstead Navigation Cut. This diverted the Ware to London barge traffic away from the millstream and the natural course of the River Lea between Ware and Stanstead. The Trustees Turnpike was removed and a weir without a lock gate was erected close to the previous location of the Miller's Turnpike. A modern fixed crest weir still occupies a similar site today, a reminder of a dispute from some 300 years ago.