

In addition, the Dumfries and Galloway Local Biodiversity Action Plan (LBAP) (Document 8) published in 2009 by the Dumfries and Galloway biodiversity Partnership which includes the appellant, SEPA and other partners highlights key, relevant issues. In the section, 'Exposed River Shingle' at page 103 the importance of this habitat type is outlined in relation to key important plants and animals that bankside habitat supports. In the section, Lowland rivers and Backwaters at page 93, the LBAP states as 'very high importance' invertebrates, birds and mammals associated with the banks for the Nith. The invertebrates *Bidessus minutissimus* which is a nationally important species has been identified in the sediments of the banks of the Nith just upstream of the bank at the Whitesands. Mammals such as otters are found at the Whitesands, and these animals are associated with areas of watercourse with abundant in-stream and riparian (bankside) vegetation. Various species of birds, some listed in the LBAP as Local Priority Species are found on the banks and in the vegetation at the Whitesands. In the section Public Open Spaces at page 218 the aim of the LBAP is to work with local communities to increase management and interpretation of biodiversity in public open spaces. The Whitesands falls into this category and has already been the subject of a successful interpretation project by a community group, the Nith Society, whereby the variety and value of the river bank habitats is presented on public interpretation boards at various locations at the Whitesands. In appendix 2 of the LBAP there is a list of Local Priority Habitats one of which is Urban Watercourses and Wetlands; the Nith at the Whitesands is a classic example of an urban watercourse on the seventh longest river in Scotland.

- **Promote and support a strategic approach towards the control of invasive species.**

This is the second objective set out in section 4 of the Catchment Plan. As previously mentioned (see section 1.1 - the Damage and Loss of Habitat section above) the removal of the gravel banks is not a strategic approach. A strategic approach is being put together by The Dumfries and Galloway Catchment Management Initiative as detailed below. The Catchment Management Initiative began as a pilot project in 2000 with the aim of delivering the objectives contained within the wetland section of the LBAP. At that time the concept of catchment management planning was fairly new but is now widespread and has been adopted as a central theme of the Water Framework Directive. Throughout the project the aim has been to involve the stakeholders of river catchments in identifying issues and developing actions that will lead to environmental improvements at a catchment scale. To date the Initiative has published three catchment management plans and is now focused on delivering projects that address the actions identified in the plans. The Initiative is jointly sponsored by SEPA and SNH.

The Dumfries & Galloway Catchment Management Initiative is putting together a project that aims to reduce the extent of non-native invasive species (NNIS) in Dumfries & Galloway (D&G) through targeted

management and control over a 5 year period. Working at a catchment scale with coverage across the whole of D & G the project will target Japanese knotweed, Himalayan knotweed, giant hogweed and Himalayan balsam. The project will also trap American mink and record and monitor water vole populations on the Annan and Nith catchments.

Practical control of NNIS will be undertaken using chemical and mechanical means. A top down approach will be taken on each catchment within D&G and control will be undertaken by the Annan District Salmon Fishery Board, the Nith District Salmon Fishery Board and Galloway Fisheries Trust, with some additional input from the Criminal Justice Community Service programme.

Based on the experience of other NNIS projects on the Tweed and Fleet catchments this project does not set out with the aim of achieving complete eradication. However, at the end of the 5 year period the extent and density of NNIS will be reduced to such an extent that fisheries bodies and riparian landowners will be able to manage and control infested areas and new outbreaks using their current resources.

- **Encourage and Support the development of towns, villages and industries that build on the natural resources and heritage of the catchment to improve economic, social and environmental sustainability**

This is the first objective set out in section 7 of the Catchment Plan. The removal of the gravel banks is not building on the natural resource and as the appellant has indicated that further removal would be required in the future it is not environmentally sustainable. Within this chapter in relation to litter (page 54) it states "Education and vigilance are two possible solutions to this problem, but will require the involvement of many to resolve the issue." SEPA has and is willing to discuss with the appellant other means of tackling the litter problem.

The appellant published its five year Regional Economic strategy in 2008 (**Document 9**). The strategy was the outcome of work by the Local Economic Forum that included research and consultation with stakeholders across the region. The strategy reflects a broad consensus of the issues faced by the regions economy and contains agreed actions to address as well as deliver significant change to the region's economy in the years to come. Theme 3 of the strategy is about 'Quality of Life' and states at page 1 "*The main aim is to promote the region as a desirable place to live, invest, study and visit*". There are five supporting objectives namely affordable housing, strengthening the 'natural place' assets, promoting the 'natural place', quality of life indicators, and opportunities for the whole region. Within the objective strengthening the 'natural place' assets, it states "*The natural environment is one of the region's key strengths. Environmental improvement, 'green-ness', avoidance of pollution, waste management and promotion of sustainable economic growth are critical*". In a second

objective, promoting the 'natural' place, it states *"There are clear links between the quality of life theme and the region's branding strategy. As part of the economic strategy, the 'natural place' brand will find a central role in promoting the area to the three principal audiences: in migrants, tourists and investors"*.

The Dumfries and Galloway Community Plan 2009-12 (**Document 10**) and Dumfries and Galloway Single Outcome Agreement for 2009-11 (**Document 11**) has the sub heading 'together is better'. In the single outcome agreement Section 6.5 at page 42 'An environment that is protected and enhanced', identifies National Outcome 12 namely, 'We value and enjoy our built and natural environment and protect it and enhance it for future generations'. As a partner organisation in this plan, together with SNH and the appellant, SEPA does not believe that cognisance has been taken of the shared vision of the community for the Whitesands and nor has a creative sustainable solution by working together in the spirit of community planning been identified. In contrast, a unilateral decision was taken by the appellant, ignoring SEPA and SNH advice, to seek to remove the banks rather than adhere to the agreement reached in 2008 to control litter and maintain bankside vegetation.

- **Promote the sustainable development of tourism and recreational activities within the Nith catchment to accommodate a variety of interests. (Chapter 7)**

This is the second objective set down in section 7 of the Catchment Plan. As stated previously this area of the Whitesands with its gravel banks attracts numerous visitors to the town and RSPB have suggested that the appellant take this opportunity to promote the wildlife and natural features of the River Nith in Dumfries town centre, thereby encouraging more people to visit and enjoy the wildlife spectacle. (see section 4.4.3 above)

Less than two years ago, the Nith society supported by SEPA, the appellant and SNH, erected interpretation boards around the Whitesands as a community project celebrating the areas rich biodiversity. These boards are enjoyed by locals and tourists and show the range of wildlife colonising the gravel banks and river at the Whitesands.

On the 28 March 2009 the Greater Nith Estuary Nature Based Tourism Cluster Development Plan (the Plan) (**Document 12**) was produced by the Southern Uplands Partnership under a project funded by SNH. The Southern Uplands Partnership operates in Dumfries and Galloway and the Scottish Borders. The Partnership is supported by various organisations including the appellant who is described as a major contributor. The Greater Nith Estuary Nature Based Tourism Cluster Development Plan includes the town of Dumfries. In the introduction at

page 4 the Plan states: *“With encouragement from Scottish Natural Heritage (SNH), Southern Uplands Partnership (SUP) identified the potential to focus on the Nith Estuary as a pilot project to demonstrate how the viability of individual businesses and environmental attractions could be increased through collaborative or cluster development based upon the intrinsic appeal of the local wildlife, landscapes and historical sites. The first phase has involved production of a development plan, funded by SNH, to establish how this could be achieved. The second phase will involve the local community, businesses, attractions and other key partners in further developing and implementing this plan”.* In section 2.7 (2.7.1) at page 9 of the Plan existing marketing is explored based on data from Visit Scotland. Four groups of people are identified from the data relevant to nature based tourism namely, affluent southern explorers, young domestic explorers, mature devotees and affluent active devotees. The potential interests of each of these four groups in terms of visiting the area are listed and under each of the groups, wildlife is included whereas with regards to two of the groups, nature is also included as an interest.

Section 5.8 of page 21 of the Plan includes ideas to explore further with local attractions, residents and businesses. Eleven points are highlighted in the report of which the following five relate directly to the value of wildlife, nature and landscape:

1. Identify ways of reinforcing the scenic and wildlife appeal of the area into every aspect of visitors' experience.
2. Explore potential for landscape/earth science holidays.
3. Explore potential for painting holidays tutored by local artists based at local nature reserves or more generally in the area.
4. Explore potential for wildlife photography courses tutored by expert local wildlife photographers, packaged with local accommodation, locally sourced food and visits to nature reserves.
5. Explore potential for guided bird and wildlife watching visits/tours.

The foregoing key strategies/plans all support good environmental management for economic, environmental and tourism reasons as well as sustainability and the appellants own slogan for Dumfries and Galloway, *‘the natural place to live, work and do business’*. SEPA believes that the proposal to remove the natural river bank is contrary to the appellant's own plans/strategies or to those to which it is a key contributor. Moreover, the removal of the river bank is contrary to CAR and unsustainable as recognised not only by SEPA but also the appellant. Contrastingly, by leaving the river banks intact and undertaking litter picking, vegetation management, educational interpretation the bank would continue to contribute to the objectives of the above mentioned plans and strategies in relation to the Whitesands, a key area of Dumfries which is the major community in the region. A particular strength with regards to economic, social and environmental sustainability is the potential the banks could play in relation to environmental tourism strategies. The management

agreement established in 2008 by SEPA, the appellant and SNH was more sustainable than the proposal to remove gravel banks and destroy natural habitats. This management agreement was reached at a meeting between managers acting on behalf of the appellant, SEPA and SNH as a way forward for managing the river bank without seeking its removal. Moreover, the application of the management plan during the summer of 2009 has demonstrated that litter can be readily removed from the bank thereby vastly improving this problem whilst the cutting of the vegetation has also enhanced the aesthetics of the bank. The only part of the management agreement not completed thus far is to make the bank more accessible to the public in order that it can be used as an amenity area similar to the Greensands on the opposite bank of the river. Accompanying this latter point, any 'dangerous' indentations or holes that exist in the bank would be levelled off by the council to ensure public safety. The RSPB and Nith Society have highlighted the value of the banks from the point of view of birds and other wildlife. SNH have also stressed their importance in this regard with particular reference to otters. The RSPB also state that the Whitesands is possibly the best place in the UK to watch goosanders close up. They go on to say that *"this species is quite rare in Northern Ireland and several groups of visiting bird watchers come to Dumfries just to watch them, as do groups from elsewhere in the UK"*. These comments together with the above proposed nature based tourism strategy emphasise the value of the bank as an integral part of the natural environment and associated wildlife of the River Nith at the Whitesands. The LBAP complements these points in terms of its listings with regards to priority local habitats and species.

For all of the above reasons SEPA believes that it is not in the public interest to remove the banks. This view is reinforced by the survey undertaken in 2009 by the Nith Society whereby they interviewed members of the public at random to establish public opinion of issues of concern with the Nith at the Whitesands. Whereas matters such as litter and vegetation, for example featured high amongst the public, less than 10% thought that the removal of the banks was appropriate. (Document 13)

5 List of Documents

1. SEPA Regulatory Method (WAT-RM-02); Engineering Activities
2. SEPA Supporting Guidance (WAT-SG-21); Environmental Standards for River Morphology
3. SEPA Position statement to support the implementation of CAR – sediment management dated 24 August 2006
4. The River Nith Catchment Management Plan
5. Draft River Basin Management Plan for the Solway Tweed River Basin District
6. River Nith Catchment Invasives
7. Letter from RSPB dated 23 July 2009
8. Dumfries and Galloway Local Biodiversity Action Plan 2009

9. Dumfries and Galloway Regional Economic Strategy;
10. Dumfries and Galloway Community Plan 2009-2012
11. Dumfries and Galloway Single Outcome Agreement 2009- 11
12. Greater Nith Estuary Nature Based Tourism Cluster Development Plan, March 2009
13. Results of Nith society Survey

