



**JOINT NATURE CONSERVATION COMMITTEE**  
**THRESHOLD FOR DESIGNATION OF SACS FOR HARBOUR PORPOISE**

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## JOINT NATURE CONSERVATION COMMITTEE

### THRESHOLD FOR DESIGNATION OF SACS FOR HARBOUR PORPOISE

#### Paper by Malcolm Vincent

#### 1. Introduction

- 1.1 The issue of SACs for harbour porpoise was last discussed by Joint Committee at its meeting in March 2004, when it was agreed that, on the basis of the then available information there was no strong case to support SAC proposals for harbour porpoise with the possible exception of the north Pembrokeshire coast/south Cardigan Bay area where the case was stronger.
- 1.2 The criteria for selecting SACs for Annex II species are set out in Annex III of the Directive. They are:
- i. size and density of the population of the species present on the site in relation to the populations present within [the] national territory;
  - ii. degree of conservation of the features of the habitat which are important for the species concerned and restoration possibilities;
  - iii. degree of isolation of the population present on the site in relation to the natural range of the species;
  - iv. global [= overall] assessment of the value of the site for the conservation of the species concerned.
- 1.3 The European Commission employs a system of grading using A, B, C and D for site selection/evaluation purposes. These grades are applied to each of the four elements referred to in paragraph 1.2 above. A site for which an Annex II species is identified as a primary reason for selection will need to be graded A or B. For sites graded C, the species will not be a primary reason for selection, but the species will be a 'qualifying feature', requiring conservation objectives. Where a species is graded 'D' for site it is considered to be a 'non-significant presence' and will not require conservation objectives. If an area is graded D for the criteria referred to in 1.2 i. above, it will be accorded a D grade overall.
- 1.4 The requirements of the Directive in relation to wide-ranging aquatic species (like harbour porpoise) differ from other species in that SACs can be proposed 'only where there is a clearly identifiable area representing the physical and biological factors essential to their life and reproduction' (Article 4 of the Directive). So while there remains a requirement to designate SACs for harbour porpoise, this requirement is of a very particular nature.

- 1.5 While some wide-ranging aquatic species have clearly-defined breeding/nurturing/feeding areas (i.e. areas 'essential to their life and reproduction'), harbour porpoise is naturally widely-distributed in north-west European waters, and relatively little is known about their breeding behaviour. In addition, there are few obvious natural site boundaries for mobile species in the open sea. In practice, therefore, Article 4, and Annex III, have proved difficult to apply.
- 1.6. To address this problem, the European Commission held an expert workshop in December 2000, to discuss this issue. The workshop concluded that while it may not be feasible to achieve a high level of representation of harbour porpoise in the SAC network, it would be possible to identify sites on the basis of:
- i. the continuous or regular presence of the species;
  - ii. a good population density (in relation to neighbouring areas);
  - iii. a high ratio of young to adults during certain periods of the year.

In addition, the expert workshop considered that 'other biological elements are characteristic of these areas, such as very developed social and sexual life'.

- 1.7 These conclusions of the expert workshop were reported in the '*Guidelines for the establishment of the Natura 2000 network in the marine environment. Application of the Habitats and Birds Directives*' published by the European Commission in 2007. This document makes it clear, however, that the guidelines, while they represent the views of the Commission, are not binding and are secondary to the provisions of the Directive. In this respect, they do not set aside the 'population size' criterion of Annex III (paragraph 1.2 i. above) where data exist to calculate this.
- 1.8 The views of the European Commission were taken fully into account in the paper considered by the Joint Committee at its meeting in March 2004.

## 2. **Consideration of 'qualifying feature' status for harbour porpoise**

- 2.1 The conclusions of the December 2000 expert workshop, and the March 2004 Committee paper, considered the issue of SAC for harbour porpoise in the context of the absence of any well-defined natural boundary, and in the context of devising practical selection criteria, where that species would be a primary designation feature (i.e. areas graded A or B). Detailed consideration was not given, at that time, to a situation where a marine site was being proposed for another (e.g. habitat) feature, and where there was a need to determine whether the occurrence of harbour porpoise on the site should be graded C or D (still taking account of the restriction placed by Article 4 on designating SAC for wide-ranging aquatic species).

- 2.2 However, with the prospective submission of, and imminent statutory consultation on, large offshore SACs primarily selected for habitat features (particularly subtidal sandbanks), JNCC advice needs to be determined on this matter. Most particularly, Government intends that JNCC should commence the statutory consultation on the Dogger Bank in December 2008, and JNCC needs to determine its advice on the grading of harbour porpoise for this site now in order to prepare the consultation papers and carry out the Impact Assessment.
- 2.3 A protocol and background information has been prepared by JNCC staff and was considered by the Marine Natura Project Group, and the Chief Scientists' Group, during August. This has been provided electronically for members who wish to review further detail. While it incorporates advice on the A and B grades so that it is comprehensive in relation to harbour porpoise, the main new element (from that considered by Committee in March 2004), relates to the grading of sites for harbour porpoise for which there is an existing, well-defined site boundary, eg defined by an Annex I habitat . This protocol is attached at Annex 1 for information.
- 2.4 In summary, the protocol provides that:
- i. for areas for which there is no pre-determined boundary, then the four sub-criteria (described in paragraph 1.6 (including the 'other biological elements' issue)) above should be assessed first. If a Grading of A or B appears justified, then a provisional site boundary could be drawn and the population estimated and an overall grade for the element referred to in paragraph 1.2 i. above derived;
  - ii for areas where a pre-determined boundary does exist, then the four sub-criteria can be scored separately, the size of the population can be estimated and an overall grade derived from these for the element referred to in paragraph 1.2 ii. above. This part of the protocol allows sites to be graded C or D.

If a site is graded C or higher, the elements referred in paragraph 1.2 ii-iv. can then be applied..

- 2.5 In practice, the quality of data needed to apply some of the sub-criteria (e.g. young to adult ratio) needs to be higher than for others (e.g. density and population size), and this is why identifying sites for A and B grading has been so difficult, and is impractical at present in offshore waters. Current data is, however, sufficient for determining C and D grading for many sites.

### **3. Implications of the protocol for existing SACs, and proposed SACs in the pipeline**

- 3.1 JNCC has investigated the methods used by other Member States in identifying SACs for harbour porpoise and provided this as background information within the protocol. Other Member States have applied the requirements of Annex III of the Directive, and the European Commission

guidelines, in rather different ways, often determined by the type and quality of the available data. Of particular relevance to the UK is the grading by Germany of their, smaller, Dogger Bank site, which lies near to the UK Dogger Bank site; it is graded B on the basis of density and the occurrence of female harbour porpoises with calves.

- 3.2 An investigation has been carried out as to what the effect of applying the protocol would be to other existing SACs, and to SACs in the pipeline. Other than the possibility of site in the north Pembroke coast/south Cardigan Bay area, the only site that would qualify for a C grade under the protocol is the Dogger Bank. This is because the site is used by harbour porpoises for the majority of the year and because its very size means that it supports some 3% of the North Sea population (equivalent to some 5% of the UK population). Other existing prospective UK sites in the North Sea, (which host harbour porpoises) are expected to score a D grade (non-significant presence).
- 3.3 Because the UK part of the Dogger Bank supports several thousand harbour porpoises for the majority of the year, a D grade for this site would be scientifically untenable on present information and open to legal challenge.
4. The Joint Committee is invited to **adopt the protocol** set out at paragraph 2.4 for the purpose of determining the grading of proposed habitat SACs for harbour porpoise **to meet immediate advice needs** (i.e. at least in relation to the Dogger Bank and sites considered for formal consultation in 2009).