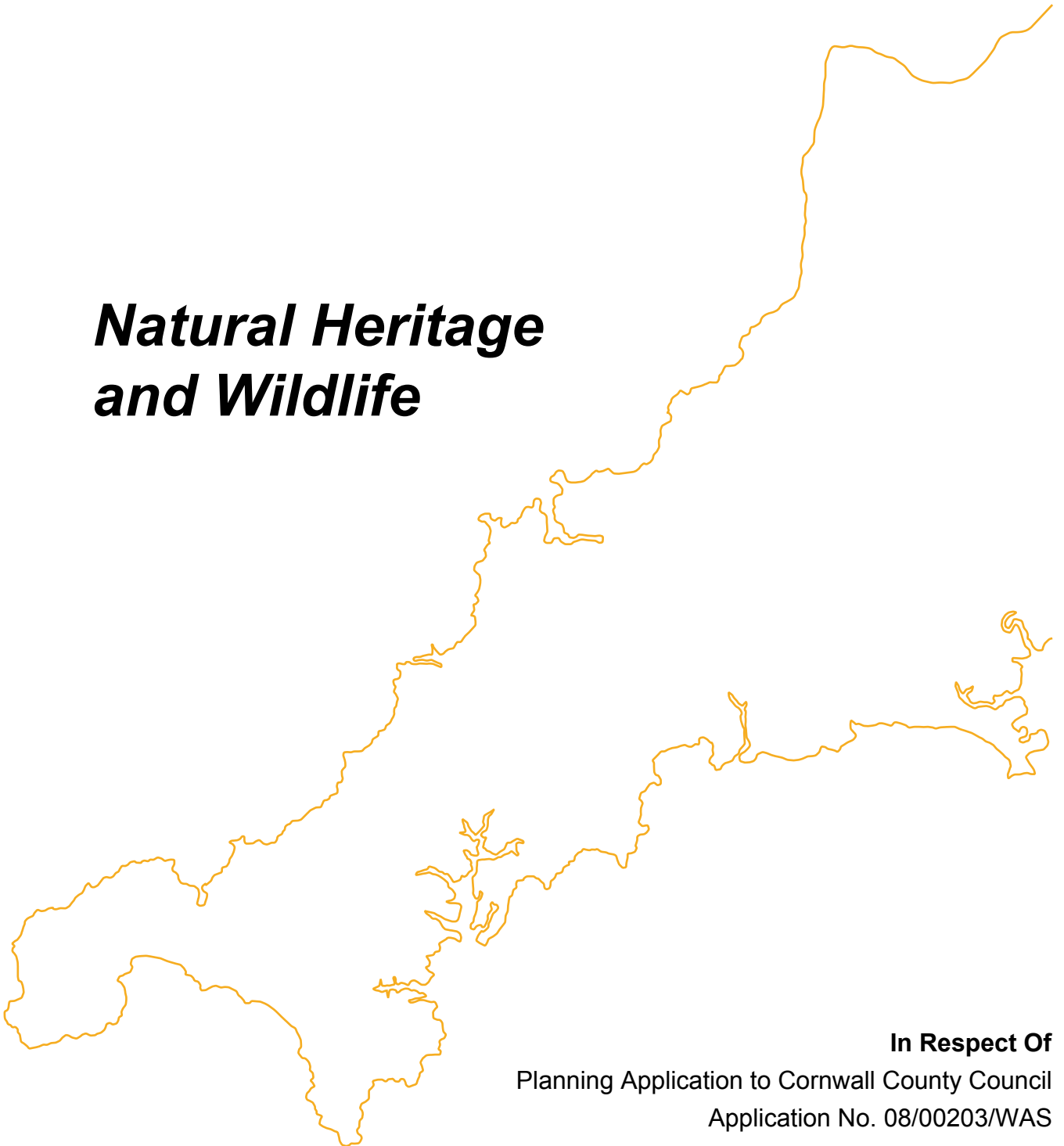




# Consultee Response to SITA Additional Information

**Consultee**  
St.Dennis Anti Incinerator Group (S.T.I.G.)

## *Natural Heritage and Wildlife*



**In Respect Of**  
Planning Application to Cornwall County Council  
Application No. 08/00203/WAS

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### Marsupella Profunda (The Western Rustwort)

#### Regulation 19, Page 39

Marsupella profunda does not appear on the plant species list. The applicants and their consultants seem to have little idea of the sensitivity to very small changes in the pH level, which can affect these plants. The pH tolerance of this very rare liverwort was mentioned in the Bureau Veritas report and has not been mentioned since.

An oceanic liverwort, Marsupella profunda is the only “priority” species (out of ALL the plant groups) on Annex II of the EU Habitats Directive. In the UK it is confined to Cornwall and these are thought to be the largest proportion of the known global population. It is a rare and threatened species.

It was discovered in Cornwall during a survey in 1993 and found in greater quantity in a survey in 1996. It colonises moist crumbling mica rich weathered granite and china clay waste. It is a pioneer species but as it is similar to the more widespread Marsupella spruce it can be easily overlooked. It will not tolerate heavy shade. Its trend of habitat is decreasing due to 1) direct human influence and 2) natural processes. Its prospects are bad and deteriorating and likely to become extinct in the biogeographical area.

As a species that is endemic to Europe and known only from some sites in Portugal, Madeira, the Canary Islands and South West England, the Cornish sites are of crucial importance in the survival of this plant. Its sites in Europe are considered vulnerable.

The species has several conservation designations. It is listed in the Schedule 8 of the Wildlife and Countryside Act 1981, in Annex I of the Bern Convention and in Annex II of the European Community Habitat and Species Directive. It is not only protected under these conservation designations but is listed as Critically Endangered in the GB Red List.

It is so endangered that publicity is not advised due to its vulnerability to botanical collection.

It seems quite horrific to S.T.I.G. that this tiny plant should be so endangered and yet so ignored by the applicant. We seem to have the largest proportion of the whole global population and it is unthinkable that we should fail to take care of this plant.

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### Nyctalus Noctula (Noctule Bat)

#### Regulation 19, Page 31

Surveys carried out by the applicant on emergence and flight transects were only done on 3 nights in the vicinity of the proposed incinerator and were restricted to designated large trees and buildings. A more thorough survey is needed, as there will be a high level of disruption to the bats in the area, which will not be mitigated by the measures outlined. Bats are very sensitive to changes in air pressure which could occur with the hot emissions from the stack and also very sensitive to nitrates. Trees and buildings have been targeted as roosting places for bats but *Nyctalus noctula* often roosts in shrubby woodland (e.g. sessile oak, hawthorn). Though not endangered, *Nyctalus noctula* numbers are declining in Europe due to elimination of their natural habitat, roosting trees and insect prey. These bats are migratory although not all choose to migrate, some choosing to overwinter in hollow logs.

It is obvious to S.T.I.G. that further more sensitive and thorough surveys are required on this particular species.

### Badgers

It has been established that at least two, maybe three, badger setts are within 10-15 metres of the proposed haul road which has already been subjected to clearance work by heavy plant. There is no mention in the application that the appropriate licence was obtained prior to this work being carried out or any mention of obtaining the appropriate licence to operate near a badger sett during its construction or its possible use. This legislation is laid down in The Badger Protection Act 1992 and its infringement is a criminal offence. A licence is even required when dealing with badgers that cause trouble. It is an offence to damage, destroy or obstruct badger setts and is considered a serious crime. The Act defines a badger sett as "any structure or place, which displays signs indicating the current use by a badger" and Natural England takes this definition to include seasonally used setts. When works are likely to disturb a badger sett it is necessary to obtain a Natural England licence. These cannot be given retrospectively so application should be made at least one month in advance of the proposed work. Work that disturbs badgers without a licence is illegal and this includes the use of very heavy machinery within 30 metres of any entrance to an active sett, (e.g. earth scrapers), use of lighter machinery (particularly for digging operation) within 20 metres (e.g. operation of a JCB) and light work such as hand digging within 10 metres.

In the original planning application document only one badger sett near the A422/31/1 footpath was identified by a survey carried out by ECOSA. It certainly was not the sett, which has already been subjected to disturbance by the haul road clearance recorded above. An independent survey carried out by a Badger Trust warden has identified two or three badger setts currently in use within the area of the planning application. These setts certainly cannot be described as being small (page 23, 3.7). It is clear from the Badger Trust warden's surveys that there is badger

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activity in the area with several entrances being found in the area of Imerys' settling tanks and also along the proposed haul road. Around one of the entrances signs of old and new bedding was found together with trails away from the sett with fresh badger dung being discovered. This particular survey was carried out on 19<sup>th</sup> December 2008 by a member of the Brock Group. Further along the road two further holes were discovered on close inspection of the bank with a trail leading away into undergrowth, typical of badger occupation. On 13<sup>th</sup> January 2009 a further survey was carried out from Treviscoe (grid ref 933 568 on OS Map Pathfinder 1353) and a foraging area and fresh dung was discovered. This is hardly "insignificant" badger occupation as claimed by the Applicant. In clearing the trees along the proposed haul road, badger setts together with a satellite sett have been disturbed and the badgers' habitat encroached upon. This is an illegal action. A full and comprehensive survey should have been carried out before any work was commenced.

A single, well-established badger sett will normally have several entrances and a large sett can have up to 50 or 100. Such setts require the teamwork of a number of badgers over several years. Setts have often been occupied by badger groups for several generations. The main sett provides a family home and as such is vital for the survival of the family group. Each family group will have, in addition, one or more subsidiary setts in their home range which will provide different levels of use, maybe temporary shelter or even as bolt holes when the animals are disturbed whilst away from the main sett. All these types of setts provide homes and shelter for badgers but even setts not being used by badgers provide hideouts and homes for other animals like rabbits, and foxes have even been known to rear the young ones in such setts.

Given the above how can any of the wildlife surveys undertaken by the Applicant be relied upon and accepted as being accurate?

The true picture is that if this planning application is approved, the impact on these badger setts would be considerable. Slow moving heavy goods vehicles working in low gears would create noise and emission pollution which would certainly breach the Badger Protection Act 1992's "disturbing a badger while occupying a sett" element. It is already clear that the law has not been upheld bearing in mind the disturbance, which has been caused in the area already. The building work that will be undertaken to build both the incinerator and the haul road will impact heavily on the setts as some of the work will pass too close to the setts and may even eradicate them altogether. What assurance do we have that the Applicant will even obtain the appropriate licence for this work when they have failed to do so for the survey work they have already carried out, bringing heavy machinery and flails to cut a swathe through the landscape in an area already occupied by badgers? They have proved themselves as having no regard to wildlife in the area and seem to pay lip service only to the laws that are designed to protect the animals and their habitat.

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### **Common Dormouse – Muscardinus Avellanarius**

The common dormouse is no longer common. Because of its serious decline it is listed as a UK Biodiversity Action Plan species. English Nature has also included it in their Species Recovery Programme. A loss of suitable habitat, by isolation of the woods through inappropriate woodland management, has led to a steep decline in their numbers. The animals are reluctant to cross open ground and consequently are vulnerable to local extinction when woodland is lost. The grubbing out of hedgerows in recent decades has removed these wildlife “corridors” between woods that might have allowed dormice to move more freely to alternative sites. Because of their specialized diet they are unlikely to be found in recently established woodland. They are protected by law in England and may not be killed, injured, disturbed in their nests, collected, trapped or sold except under licence.

The common dormouse is listed on Appendix 3 of the Bonn Convention and Annex IVa of the EC Habitats Directive. It is protected under Schedule 2 of the Conservation (Natural Habitats etc) Regulations, 1994 (Regulation 38) and Schedule 5 of the WCA 1981.

The work on cutting down the trees and shrubs along the route for the proposed haul road has destroyed all the dormouse tubes so any survey in that area will now be rendered worthless. It is no longer possible to check the survey data. This blatant disregard for the wildlife and its habitat is totally unacceptable and gives no confidence in the Applicant’s intention of ability to care for the wildlife in the vicinity of their proposed installation.

The common dormouse has a habit of moving breeding territory from year to year. The fact that they were absent for the short time that this survey was undertaken is no proof that they do not breed in the area.

### **Bittern (Botaurus Stellaris)**

Bitterns have recently been sighted at Trerice Bridge. These birds are included in Cornwall’s Biodiversity Plan; they are listed in Annex I of the EC Birds Directive and Appendix II of the Bern Convention. They are protected in the UK under Schedule I of the WCA 1981 and Schedule I of the Wildlife (Northern Ireland) Order 1985. They are listed in the “red” category of conservation in the UK, which is the highest conservation priority with species needing urgent action. They are globally threatened with their population being in decline in the UK over the years from a peak of 70 pairs in the late 1960s to around 15 or 16 pairs in 1994. They are probably attracted by the large numbers of reeds now growing in the area where they feed on fish and amphibians. They are mostly found in Norfolk, Suffolk, Lancashire and Southern England but are highly endangered and vulnerable. Loss of habitat is one of the biggest reasons for their decline and funding is available from English Nature’s Bittern Recovery Project for landowners for reed bed management and restoration.

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### Conclusion

From the above it is obvious that the surveys that have been carried out have not been thorough enough. A highly endangered liverwort which is not even on the list, a type of bat and a highly endangered bird that have been largely ignored, dormouse habitat blatantly destroyed already and badger activity described as insignificant. These surveys are clearly insufficient and inaccurate. If we truly care about the wealth of wildlife in the area (some of which is extremely vulnerable) then we must carry out further accurate and exhaustive surveys and not just pay lip service to them.