

OVERVIEW AND SCRUTINY
7 June 2016

***PART 1**

AGENDA ITEM No.

16

TITLE OF REPORT: GROUNDS MAINTENANCE CONTRACT PROCUREMENT

REPORT OF THE HEAD OF LEISURE AND ENVIRONMENTAL SERVICES

EXECUTIVE MEMBER: COUNCILLOR P BURT

1. SUMMARY

- 1.1 The current grounds maintenance provision for North Herts District Council is currently delivered by John O'Conner Grounds Maintenance Ltd which commenced on the 1st April 2012. The existing arrangements are due for a renewal or open market procurement as of the 31st March 2017. John O'Conner also held the previous contract with North Herts preceding the current arrangements for eight years.
- 1.2 Under the terms of the existing contract arrangements there is the opportunity to extend the existing arrangements or undertake a full procurement process in the open marketplace along similar principles as occurred in 2012.
- 1.3 So as to establish the most appropriate and economic way forward a Project Board has been set up to investigate the various options available to the District Council.

2. RECOMMENDATIONS

- 2.1 That Members support the principles proposed within this report subject to the considerations of the financial elements to be considered within the Part 2 element.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To maintain the parks and open spaces within North Hertfordshire to ensure they are fit for purpose while achieving best value and working towards meeting the expectations of residents.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 There are two options available which are to extend the existing arrangements while taking the opportunity to make amendments within the scope of the current contract, or to undertake a full procurement exercise in the open marketplace.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 A Project Board was created to examine the detail of this issue and the potential impacts upon North Herts District Council. The conclusions of this Project Board form the basis of this report and the recommendations contained herewith.

6. FORWARD PLAN

- 6.1 The recommendations in this report constitute a key decision and are identified in the Forward Plan.

7. BACKGROUND

- 7.1 The current arrangements with John O'Conner's have been in place since 1st April 2012 for a period of 25 years. The current contract has the flexibility to review contract performance every five years and to extend these arrangements or to terminate them and permit the authority to procure the service through an open tender process at each review.
- 7.2 So as to determine the most appropriate way forward a Project Board has undertaken a review of the existing service provision by John O'Conner's and authorised Officers to negotiate accordingly so as to achieve the best and final offer available under today's circumstances and into the future.
- 7.3 The proposals negotiated by Officers and proposed by John O'Conner reflects a saving for North Herts District Council while also managing future anticipated financial risks such as the introduction of the Living Wage.

8. CONSIDERATIONS

- 8.1 Project Board has considered at four meetings the issues and risks associated with either extending the current contract or tendering the work in the open marketplace.
- 8.2 At the fourth meeting of Project Board on 16th May 2016 consideration was given to the options that presented the least risk to the Council and provided the best consideration overall.
- 8.3 A summary of the process undertaken by Project Board is attached at Appendix A which clearly shows continuous improvement over the current contract period since April 2012 with a good partnership approach. A description of the contract performance monitoring system, including results since 2012 is also included within Appendix A.
- 8.4 The current arrangements with Herts Highways are in place until 2019. However, Officers have been in discussions with North Herts Homes who have indicated that they intend to extend their working relationship with us for a further period of time beyond April 2017.

- 8.5 The Best and Final Offer from John O’Conner’s Grounds Maintenance Ltd is shown at Appendix B. A summary of the potential options is shown in the table below.

Item
JOC accommodate the impact of introducing the Living Wage (This is a mitigation of anticipated future costs and is not an immediate revenue saving)
Commercialisation of Pest Control
Specification amendments as presented at the previous Project Board (8.6 below refers)
Disposal of the Performance Bond

- 8.6 Specification amendments that are proposed above representing the identified saving are as follows –
- Increase height tolerance of general amenity grass cutting in the winter from 70mm to 100mm.
 - Rough cut grass cutting to be undertaken once in the autumn instead of every six to eight weeks through the summer. Sightlines and overhanging vegetation into footpaths and highways to be maintained throughout the summer as per original schedule
 - Remove annual cleaning of seats and benches within the parks. This can be delivered on a reactive basis as and when required in the future as a variation order.

9. LEGAL IMPLICATIONS

- 9.1 Contracts must be extended in accordance with the Council’s Contract Procurement Rules and the Council’s Constitution. Given that this decision relates to a key decision, the Council’s Executive is authorised to approve the extension.
- 9.2 The Council has a legal obligation to secure best value in the award of contracts and Project Board is satisfied that a contract extension would secure best value in the light of current market conditions and the impact the Living Wage is likely to have on prices in any procurement exercise.
- 9.3 The OJEU notice in respect of the original procurement expressly set out the Council’s right to extend the contract to a maximum term of 25 years. Therefore the proposed extension of ten years, with a break at year five, is compliant with procurement law and practice.

10. FINANCIAL IMPLICATIONS

- 10.1 Gross expenditure on the core service [fixed outputs and price] elements of the Grounds Maintenance contract is index linked, with the cost of the contracted services to NHDC changing annually in line with the twelve month movement in the Retail Price Index excluding mortgage payments (RPIX) as measured at October of the preceding year. An annual saving in the cost of the contract is estimated if all of the savings options proposed at 8.5 are agreed. In addition, it has been agreed that any financial impact from the introduction of the new national minimum wage will be absorbed by the contractor.

11. RISK IMPLICATIONS

- 11.1 There are no risk implications associated with continuing inclusion of North Herts Homes within the Grounds Maintenance Contract. However if North Herts Homes chose to procure their own service delivery there would be an impact to North Herts District Council due to the loss of any economies of scale and changes to the aesthetic appearance of the urban areas which would create a reputational risk.

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on 1 October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on 5 April 2011. There is a General Duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to:-
- Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic (age, disability, gender re-assignment, marriage or civil partnership, race, religion and belief, sex, sexual orientation and pregnancy and maternity) and those who do not (this can mean removing or minimising disadvantage; meeting people's needs; taking account of disabilities; encouraging participation in public life).
 - Foster good relations between those people who share a protected characteristic and those who do not (such as tackling prejudice and promoting understanding).
- 12.3 In regard to the move to a reactive basis and not annual cleaning of benches, there may be an impact on certain users. If a bench is not clean, a user may likely avoid using it. Those most likely to use a bench are the elderly, or those with children and less abled-bodied individuals. The revised contract will need to clearly state the timescale for any reactive work to be implemented.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations made in this report do not constitute a public service contract, but an extension to an existing contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraph 12. However, at such time as the contract is required to be re-negotiated, Social Value benefits and implications will need to be assessed as part of that procurement process, captured and reported alongside the procurement in due course.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 There are no pertinent Human Resource implications associated with any items within this report. However if the recommendation is not approved the alternative option to undertake an open market procurement exercise would place considerable pressure upon the Leisure and Environmental Service Team due to the time constraints involved with this process.

15. APPENDICES

- 15.1 Appendix A – Description of the current contract including results of performance monitoring.
- 15.2 Appendix B – Best and Final Offer from John O’Conner’s.

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

17.1 Project Board Minutes

Review of the Grounds Contract at North Herts District Council

High Level Facts

Service provider is John O’Conner Grounds Maintenance Ltd

Contract commenced 1 April 2012 for an initial five year term with the option of extension for a further twenty years in blocks of three to five years

The contract covers an area of 2,950,000 square metres.

John O’Conner’s GM Ltd employs 35 permanent staff members who are supported by an additional 12 seasonal staff in the summer who are dedicated to North Herts.

Of the above 35 permanent staff four are apprentices who are working towards NVQ qualifications.

Key partners we provide a service on behalf of as part of the contract are North Herts Homes and Herts Highways.

Key areas of work are –

Grass cutting

Shrub border maintenance

Maintenance of litter and dog bins

Hard Surfaces

Benches

Cemeteries including burials

Hedges

Paddling Pools & Splash Pads

Rivers and Culverts

Pest Control

Outdoor sports provision – football, rugby, cricket, tennis, bowls

Contract Performance since 1 April 2012

Initiatives introduced by John O'Conner

Identification and employment of the Park Ranger for Howard Gardens

Introduction of two new all electric vehicles dedicated to the contract

Euro compliant emissions vans and vehicles

Relocation of the local depot to Hitchin from Arlesey

Conservation grass taken for feed for horses instead of going to landfill

Green waste disposed of at Cumberlow Green

Litter collected from parks and open spaces is separated and recycled by Cawleys of Luton

Wild flower initiatives as seen in Letchworth and Hitchin to maintain a display of flowers while reducing the cost of seasonal bedding provision

Greenflag success across a number of sites in the District

Contract Delivery

Monitoring of the contract is undertaken by Officers from North Herts. As part of the contract there is a requirement to maintain a level volume of inspections each month throughout the year to ensure that there is equity across the contract term.

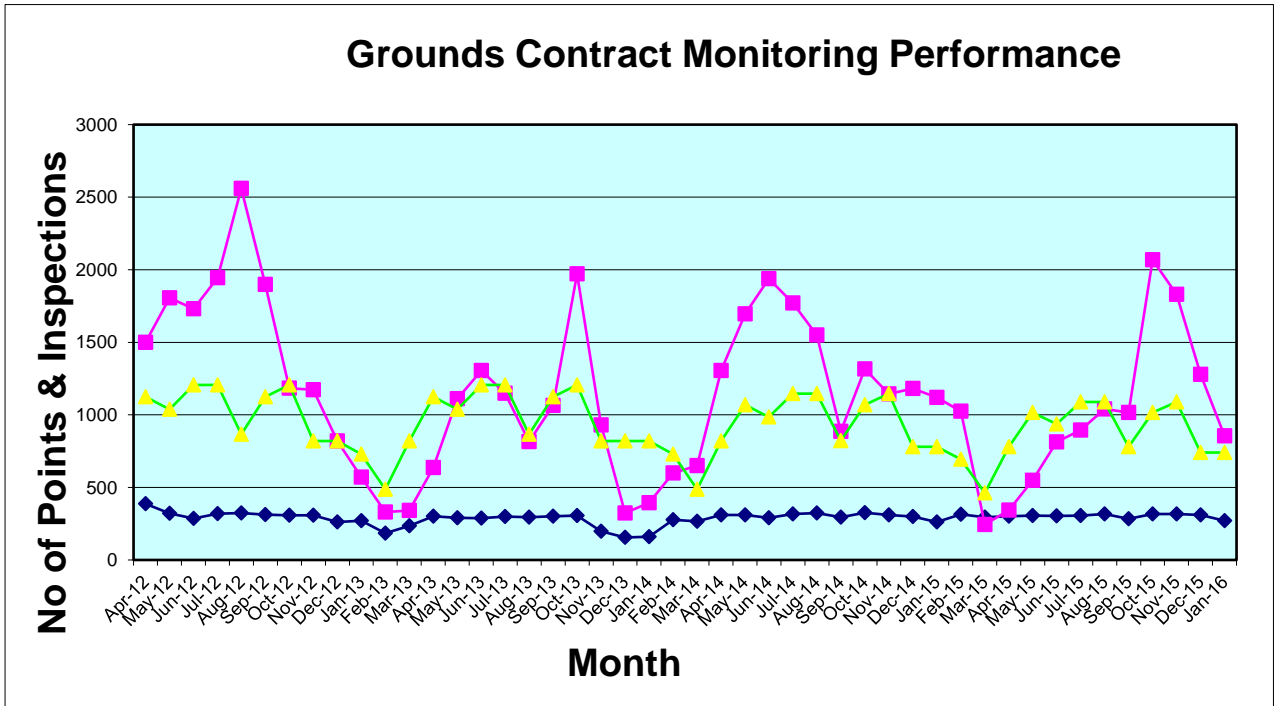
The Grounds Team undertakes 300 recorded inspections each calendar month. These are split into 100 random locations as directed by a computer program, 100 high profile locations that require regular monitoring and 100 locations of the inspector's choice depending upon specific issues at the time.

Recording of the inspections is undertaken by using a smartphone and is logged on John O'Conner's own web site which is accessible via any web enabled device via a login and password. Inspections are graded and allocated points depending upon the nature and severity of the issues found. If the location is at contract specification no points are awarded.

As a general principle it is accepted that the delivery of the contract due to its size and complexity will never be 100% in accordance with the specification. Therefore a level of tolerance has been included within the monitoring system which is called "The Null". The Null was agreed by both NHDC and John O'Conner when the contract commenced and is based upon historical performance and fluctuates throughout the year to reflect the seasonal peaks and troughs in work load and growth of the grass etc. Every year the Null is reduced by 3% on average as part of the process to evidence continuous improvement.

The chart below shows the performance of John O'Conner since the commencement of the current contract –

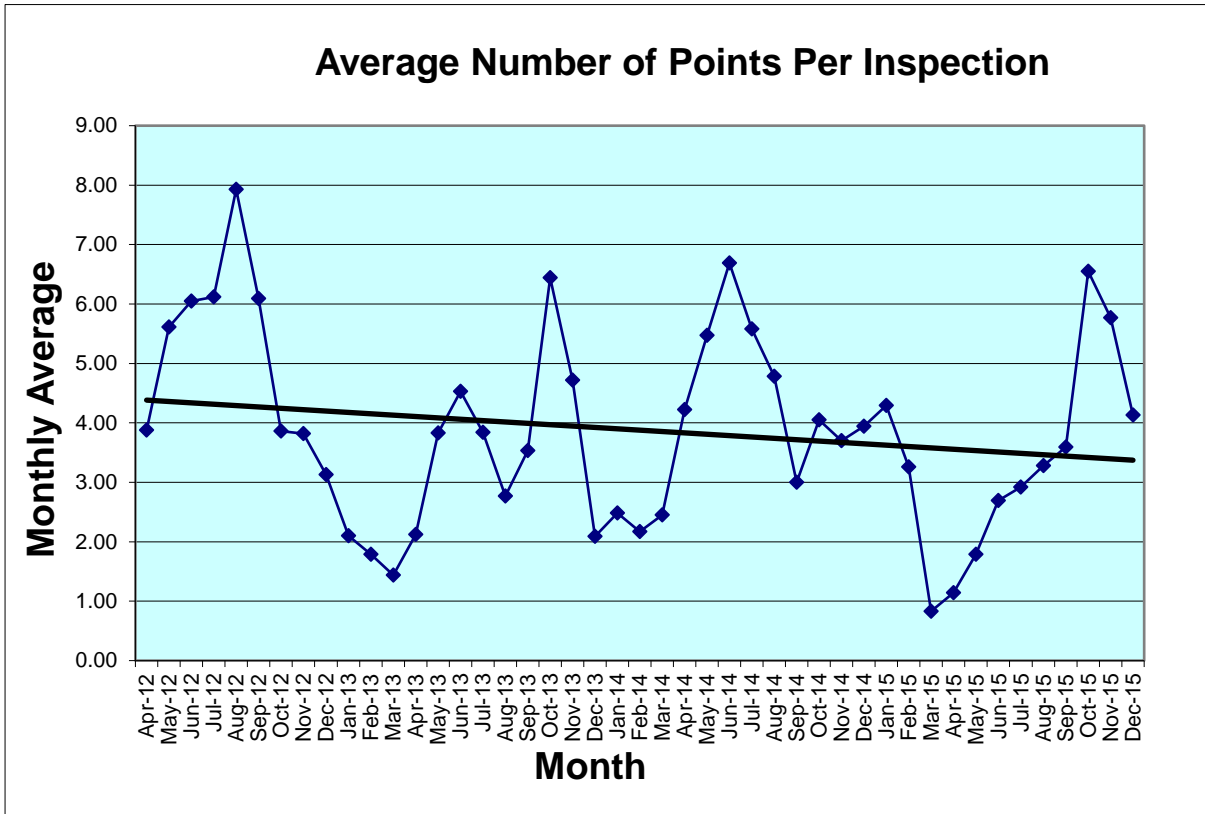
The pink line is the score achieved by John O'Conner against the Null which is the green line with yellow triangles. The blue line is the number of inspections recorded each month.



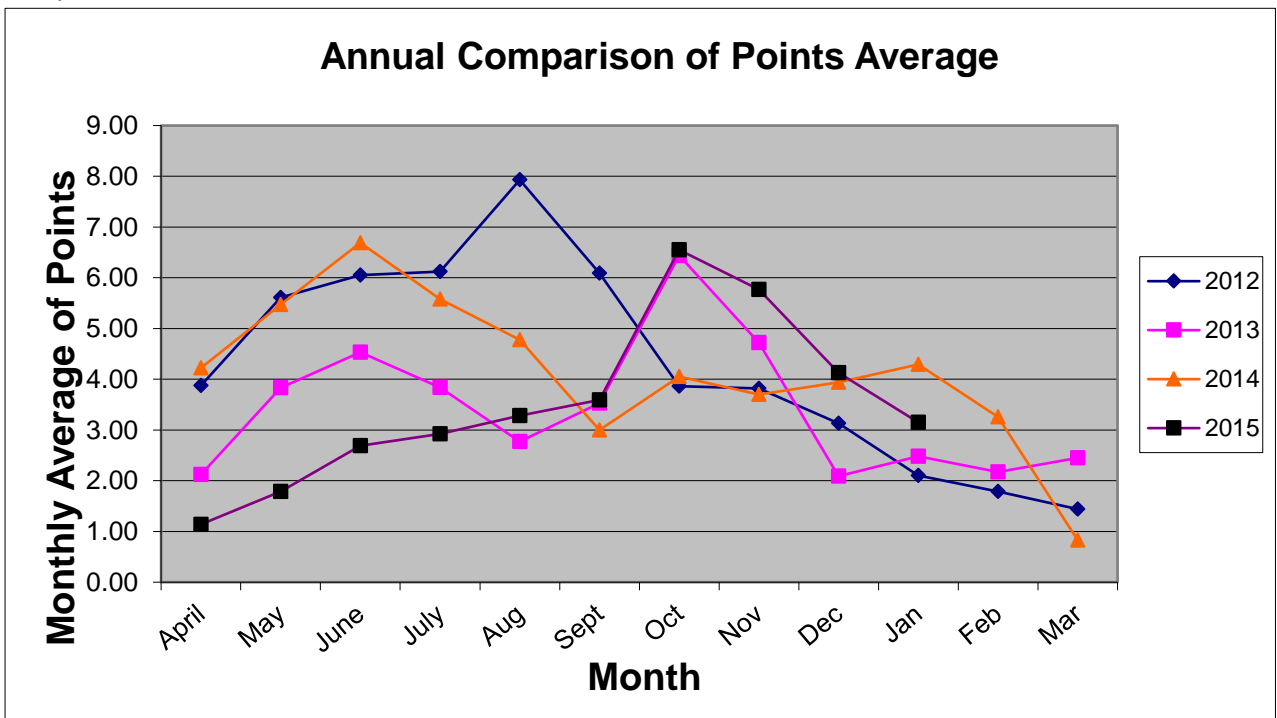
Performance can be seen that is regularly below the Null

The points are averaged to create a figure of the number of points awarded against the total number of inspections each month.

The chart below shows a trend line of a reducing number of points therefore also indicating on going improvement in contract delivery.



The chart below shows the average points per month achieved by John O’Conner’s on a year by year comparison



The period covered by the above chart is April 2012 to December 2015

APPENDIX A

The chart above shows that in 2015 from April to August performance was the best we have seen since the start of the contract. From August onwards performance has slipped which could be attributed to the very wet weather conditions experienced nationally. However from November onwards performance has constantly improved showing an adaptation to circumstances on the ground and commitment to meet the contract specification.

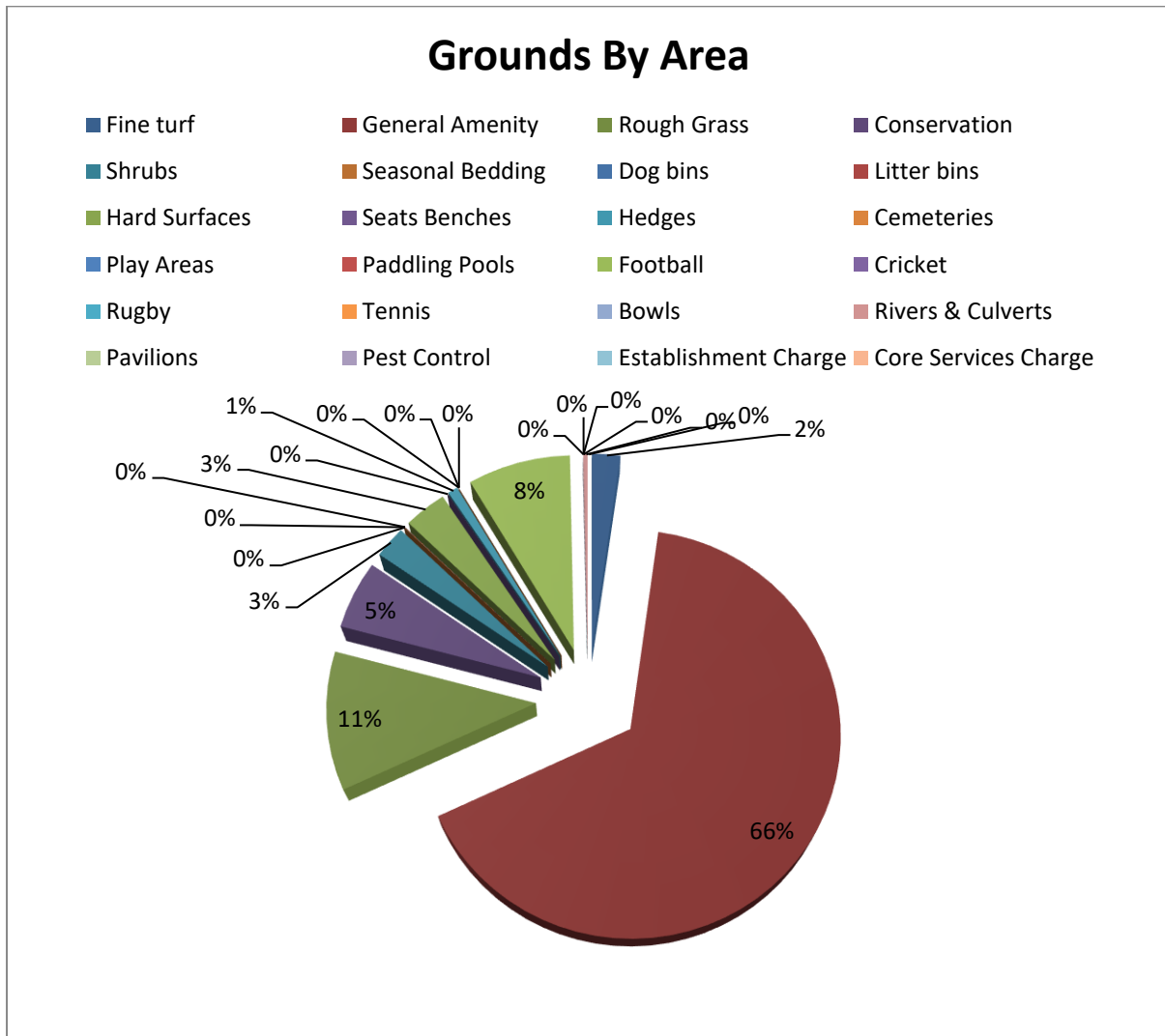
Performance Conclusions

Using the above information that has been collected on a consistent basis since the current contract commenced it is evident that on the whole John O'Conner has delivered the specification they are being paid to deliver. Additionally over the term of this analysis there have been ongoing improvements in the quality delivered.

Analysis of the Contract

As indicated above the range of operations within the contract is very broad requiring a number of different skill sets.

The chart below shows each area of work by volume in square metres –

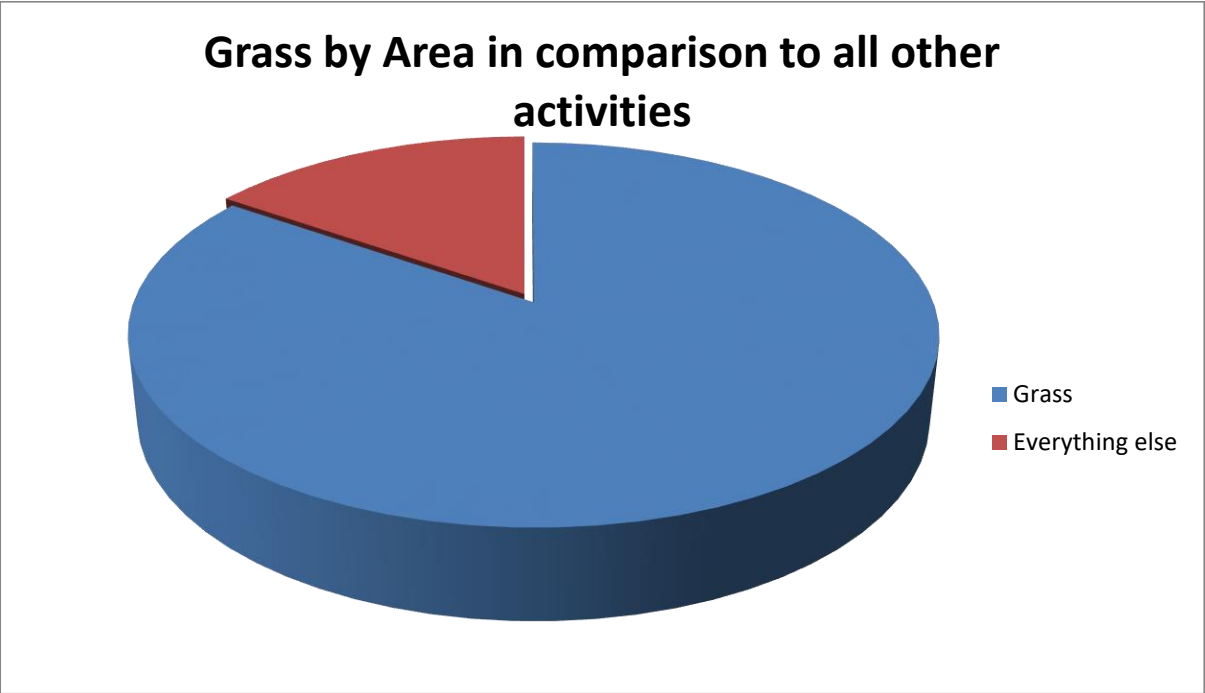


The above does not include the maintenance of Local Nature Reserves such as Oughtonhead Common which includes area grazed by cattle and receives input from volunteers.

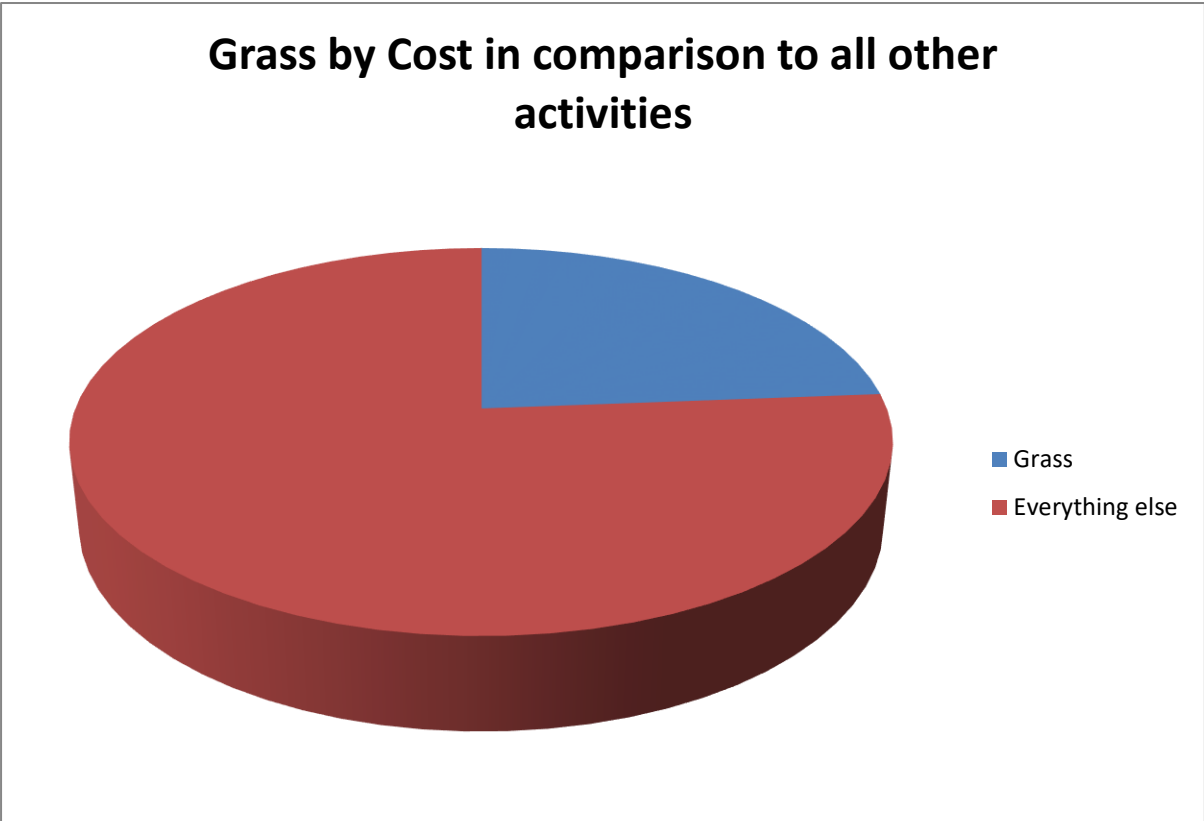
The largest element at 66% of the volume is General Amenity Grass Cutting and with the inclusion of the other standards of grass cutting fine turf, rough and conservation grass this can increase to 84%

APPENDIX A

The chart below shows the relation between grass cutting and all the other activities within the current contract by volume.



However when you consider the value of grass cutting in comparison to everything else it is a different story

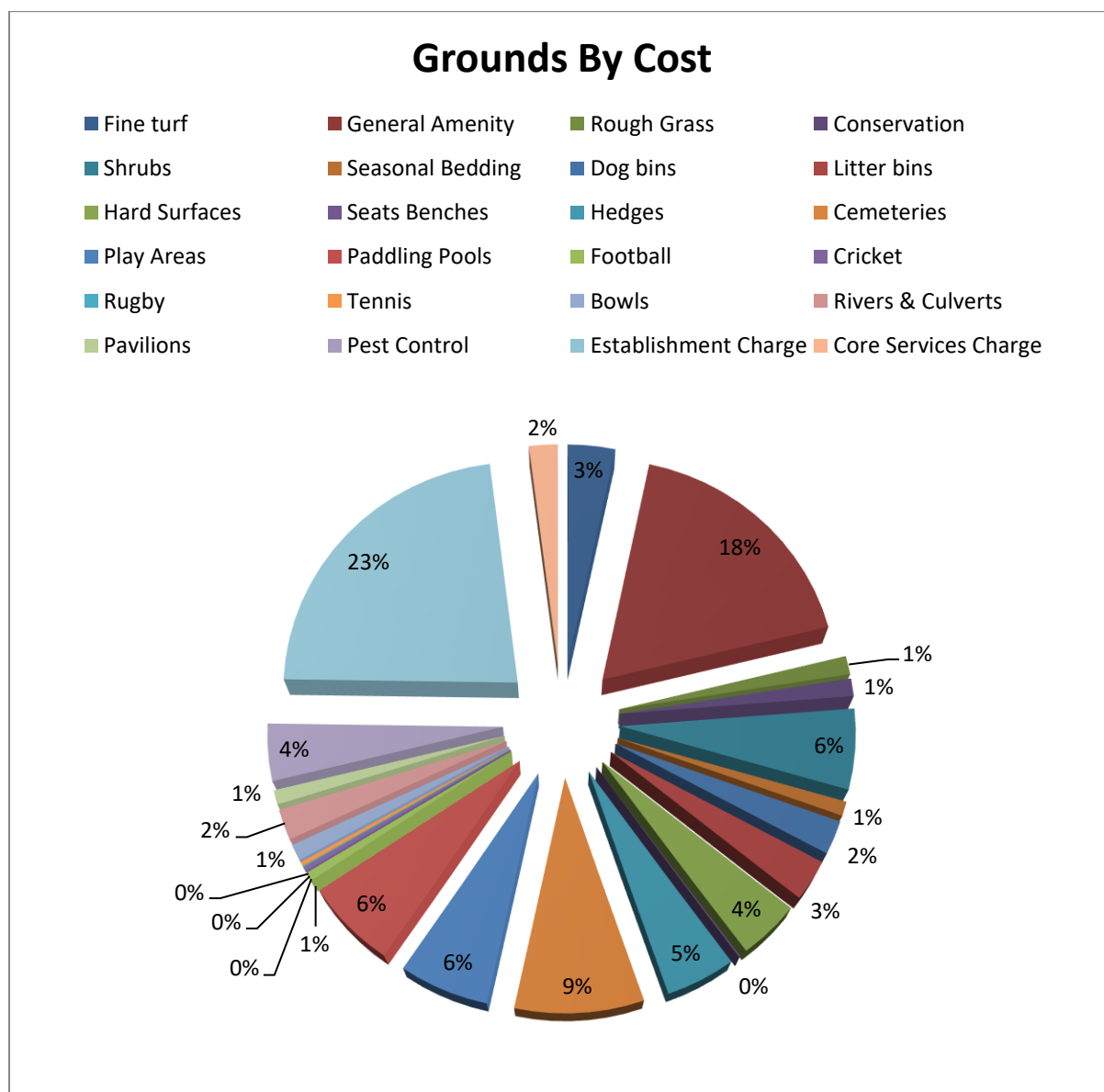


APPENDIX A

This reflects the 80:20 split between area and cost. 80% of the area only costs 20% of the budget

To support the long term sustainability of Parks and Open Spaces the most economic method of maintenance is to keep the areas as grass. There is an opportunity to be innovative with grass cutting by amending cutting regimes and introducing wild flowers both of which can be done at minimal cost and control future maintenance implications while helping to deliver greater opportunities for biodiversity. We have already tried similar approaches at Walsworth Common Hitchin and the Garden of Remembrance at St John's Cemetery, Hitchin.

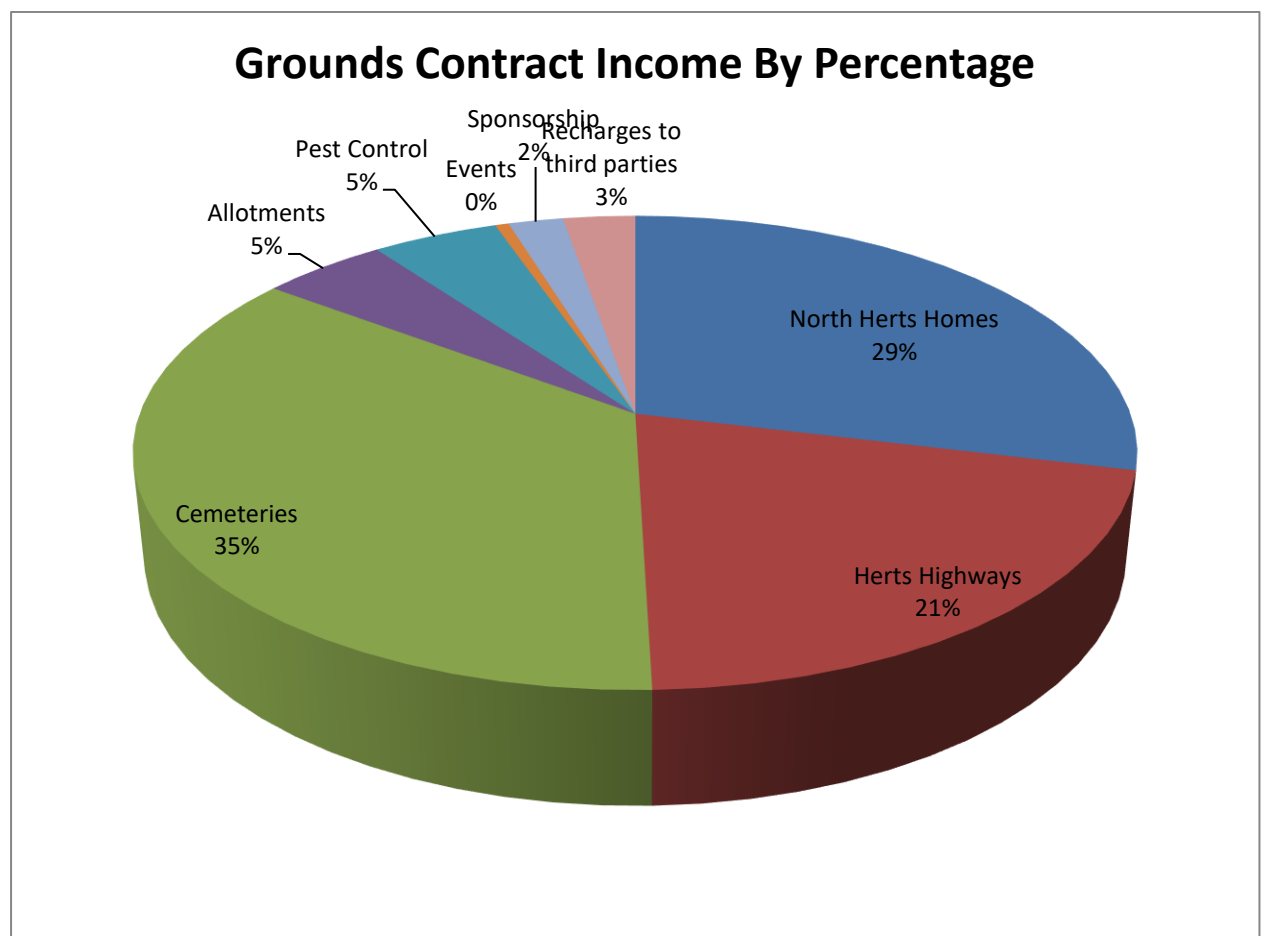
The break down of the costs of the contract are detailed within the chart below



Income

The delivery of the grounds contract also includes the provision of the grounds maintenance service for two key partners. These are North Herts Homes and Herts Highways. Both contribute indirectly to the aesthetic appearance of the District in that they both receive the same or higher standards of maintenance than currently applied to land owned by NHDC. This work in both instances is financed by the relevant organisation and helps to generate contractual economies of scale that we all benefit from.

Income is broken down into the elements as detailed within the chart below



The largest element of income generation is delivered through the authority’s cemeteries. This is largely due to the policy of making this service element self sufficient at nil subsidy to the authority.

The other two vital elements of income are those of North Herts Homes and Herts Highways. Without these additional elements the unit cost for delivering the contract would increase. To preserve the present outlook across the District this places additional importance upon North Herts Homes and Herts Highways remaining within the grounds maintenance provision in the future

Future Options

In the first Project Board Report it was highlighted that there are two key options for the future.

Below is a risk analysis of the two available options –

	Advantages	Disadvantages
Extend the current contract	<p>Known provider with established client-contractor relationship</p> <p>Evidence to show continuous improvement</p> <p>Known costs to enable more accurate budget projections for the future. This would also help with the negotiations with North Herts Homes for renewal of the SLA</p> <p>On going service delivery that will be seamless for residents</p> <p>Cost of undertaking a market test exercise is avoided completely</p>	<p>Limited opportunity to reduce costs within the scope of the existing contract if radical amendments are required</p>
Retender the contract to the market place	<p>Realise the full current market price for the provision of the contract</p> <p>Existing relationships would be renewed and could bring new approaches to problems</p> <p>Quality of service could improve</p>	<p>The cost of market testing may outweigh any potential savings in the first years of the contract. It is anticipated that the cost of undertaking a tender exercise could be in the region of £100,000</p> <p>Costs may increase</p> <p>Would need to develop a new client contractor relationship which may not be as productive as the current arrangements</p> <p>Quality of service delivery could deteriorate requiring more input to manage</p> <p>Potential loss of historical knowledge of the District from within the work force and therefore impacting upon quality</p> <p>Service delivery quality would suffer leading up to the contract renewal date and for a period afterwards while</p>



06 May 2016

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Dear Andrew

Thank you for meeting last week to discuss the potential extension of our grounds contract, when its initial 5 year term ends on 31st March 2017. We have worked for North Herts for 22 years and are very proud to be associated with the districts high standards of grounds maintenance, as recognised throughout the county. I would like to confirm our willingness to extend the successful working partnership we currently enjoy and acceptance of the following terms:

- The impact of the National Living Wage be absorbed without increasing the contract costs
- To consider future savings options such as removal of dog bins and play area reductions
- To undertake the commercialisation of the pest control service so it is a standalone provision
- To maintain an open approach to future savings options as maybe required
- The contract renewal is for a period of 10 years ending 31st March 2027, with a mutual break clause at the end of year 5
- The value of the null is reset to the figures as agreed in April 2012
- The null is reduced by 2% annually over the next 5 years
- The abatement value of the null is retained at £5 per point over and above the null
- The clawback value of the null is increased from £2.50 to £5 per point under the null

Previous savings offered via adjustment of the specification to be accepted as follows:

- Rough grass cutting to be undertaken once annually (April 2017)
- Removal of seat and bench cleaning from the contract (April 2017)
- Height tolerance of general amenity grass to be raised to 100mm (To be implemented November 2016). This change will only apply November to February, with the intention of removing the need for grass cutting during this period.

John O'Conner (Grounds Maintenance) Ltd
Incorporated in England Company Number: 2617638
Registered Address: 2 Great North Road, Welwyn, Herts, AL6 0PL VAT Number: 600 5559 68

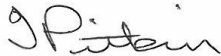


Consideration will also be given to the following :

- Removal of the requirement for John O'Conner's to maintain a performance bond and savings to be passed to North Herts
- Local Government Pension Scheme Liabilities will vary during the period of the extension due to reductions in the number of eligible operatives or periodic re-evaluations. Any saving in overall liabilities can be offered as a saving to North Herts
- To consider the option of Prudential Borrowing from North Herts DC to cover the capital requirements to equip the contract. This may also extend to include borrowing for investment on equipment for other John O'Conner contracts

I hope this proposal is of interest to you, if you require any further information please do not hesitate to contact me.

Yours sincerely



Ian Pitkin
CONTRACTS DIRECTOR