



# A KNOTTY ISSUE

*Edwards Duthie solicitor Kavita Rana on how Japanese Knotweed is creating a tangle in the property market*

**J**apanese Knotweed is one of the most invasive plants in the UK. It spreads rapidly and can grow up to 10cm a day. It is extremely difficult to eradicate from land and can penetrate foundations, concrete hardstanding and walls, causing considerable damage. The Government has estimated that eradicating it from the UK would cost £2.6 billion.

Knotweed is a growing nuisance in the property sector as its presence can adversely affect the value, marketability and insurability of land and buildings. Some mortgagees are reluctant to lend. Knotweed can cause problems for developers, homeowners and occupiers if it is not controlled and is allowed to spread to neighbouring land. It could result in a substantial pay out of compensation to the owner of the neighbouring land.

The law in relation to liability for Japanese Knotweed is developing. Two Claimants recently brought claims against Network Rail. Both Claimants owned properties alongside an active railway line, as well as an access path and embankment between the houses and the railway. Japanese knotweed was present and had spread from the embankment underneath the Claimants' homes. The Claimants alleged nuisance for the physical encroachment of the knotweed onto their land, and the presence of it, which interfered with the use of and value of their properties. The



GETTY IMAGES/ISTOCKPHOTO/CSFOTOMAGS

Claimants alleged that Network Rail were liable to compensate them for the nuisance.

Both Claimants succeeded in their claims. The Court found that no physical damage had been caused to their properties. However, despite this, the Court held that the presence of knotweed on Network Rail's land did unlawfully interfere with the Claimants' right to undisturbed use and enjoyment of their land. The Court awarded each Claimant £4,320.00 for treatment of the knotweed, and circa. £10,000.00 for diminution in value of each property. Network Rail is appealing the decision.

More recently, the case of *Smith v. Line* reinforces the Court's approach to liability for Japanese knotweed. The Court held that the property owner was liable in nuisance for a ten per cent diminution in the value of the Claimant's £500,000 home, as a result of the spread of knotweed.

**ABOVE:**  
The presence of Japanese Knotweed can affect the value of a property

Landowners, sellers and buyers are becoming increasingly concerned about the presence of Japanese knotweed. If you are a developer, you should check for any signs at the site and on adjoining land. If you have a problem on your own land, then it is imperative that you are aware of your obligations to treat knotweed. Specialist knotweed surveys can be commissioned if there is concern.

Where knotweed is treated, consideration should be given to whether a guarantee is available and the extent of it. Guarantees should be supported by insurance

Japanese knotweed is aggressive and can leave you in a tangle. Act with caution in order to minimise your risk and if in doubt, always seeks advice. **RD**

**Get in touch**  
**Edwards Duthie Solicitors**  
**149 High Street, Wanstead, E11 2RL**  
**020 8514 9000**  
**edwardsduthie.com**