

A knotty problem: Japanese knotweed and Guernsey law

Insights - 23/12/2022

Whether you have recently bought a house and discovered Japanese knotweed or are worried about Japanese knotweed on adjoining land, it may be necessary to take legal advice. Japanese knotweed is an extremely invasive and destructive perennial weed and can be identified by its reddish-purple fleshy shoots and heart shaped leaves that bud alternatively in a "zig-zag" pattern along the stems.

The pernicious plant's invasive root system and strong growth can damage concrete foundations, roads, paving and retaining walls and in extreme cases, even undermine the structural integrity of buildings. Hot weather and rainfall can lead to the weed growing out of control and The Royal Horticultural Society says that by early summer the bamboo-like stems can shoot up to over seven foot tall.

Some mortgage lenders in Guernsey will not lend on properties that suffer from Japanese knotweed. If you are selling your property, you may be asked to confirm whether the property suffers from the weed. While some mortgage lenders will not lend against properties that suffer from Japanese knotweed, some may be willing to lend where the weed can be eradicated before completion, or where a management plan is put in place by a professional eradication company, backed by a transferable guarantee.

As the law currently stands, there is no legal obligation to remove Japanese knotweed from your land. If the plant is coming onto your property from any adjoining property, the Guernsey customary law recognises the principle of bon voisinage, or good neighbourliness, but a practical and cooperative approach should be adopted if at all possible since the law can be uncertain in its application to such issues.

The States of Guernsey have [published some advice on their website](#) together with a list of dos and don'ts when controlling Japanese knotweed, which include:

- do not trim or chop Japanese knotweed as this creates small fragments that can root and

spread the problem

- do not move soil contaminated with Japanese knotweed as this will just spread the problem
- do not pull Japanese knotweed unless you can dispose of it safely. Pulling can tear pieces of the crown out which are very persistent and difficult to kill by composting, drying or burning.
- do start treating Japanese knotweed as soon as you see it and keep at it until it is gone. This may take several years
- do, wherever possible, dispose of Japanese knotweed on the infected site. Moving them to another site will increase the risk of initiating new infestations

For large areas or commercial sites infested with Japanese knotweed, it may be necessary to engage a qualified contractor. A knotweed management plan can be put in place often in conjunction with Planning, Guernsey Water and the Guernsey Waste Management team. For developers, it is vital to ascertain whether a site is contaminated as soon as possible. Soil can be examined for evidence of stem material.

Whether a buyer, seller or developer, it is worth checking for the presence of Japanese knotweed. A failure to disclose its presence, or the lack of a knotweed management plan can result in delays, increased costs, an abortive transaction or even a possible misrepresentation claim after any sale. A proactive approach will help to avoid problems.

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

Key Contacts



Jonathan Anderson

Counsel

Guernsey

Jersey

E: jonathan.anderson@ogier.com

T: +44 1481 752387

Related Services

Channel Islands Local Legal Services

Local Legal Services

Legal

Property law