

## Reality Check - Japanese knotweed and the Built Environment Government Inquiry

In 2019 the Government launched an inquiry to look at what is seen as a scourge of the property market – Japanese knotweed. The Science and Technology Committee held a one-off oral evidence session with relevant experts, specifically to explore the science behind the effects of Japanese Knotweed on the built environment.

The aim of the session was to find a balanced and reasoned perspective regarding the harm caused by Japanese knotweed to property and its implications to the home owners. Examining the question - Is the current reputation of Japanese knotweed a fair one?

Of key interest to the chair of the inquiry where:

- 1) How concerned should a homeowner be if they discover Japanese knotweed in their garden?
- 2) Is the concern because of a serious problem with the damage that it can do to the building, or because of the consequences for the value of their house, owing to the attitudes of mortgage lenders and so forth?
- 3) Is the concern that the identification of knotweed in a garden causes complete misery for the occupiers—the owners of that property. It blights the property. They cannot sell it. It has a massive impact on the value of the property.

Recent research carried out by the University of Leeds has shown that the physical damage to properties has actually been over exaggerated, compared to other plants who are also willing to exploit weaknesses in the fabric of buildings. In this regard it could be said that Japanese knotweed is no more of a threat than other plants like trees and buddleia. However, woody plants like these can generally be removed as a once only process. Where the difference comes in, and the key problem with Japanese knotweed, is that it is not easy to kill or remove in this way. The rhizomes can impact the land for many years even while undergoing twice yearly herbicide treatments. Over time these treatments have the effect of weakening the rhizomes until they can no longer produce top growth, and from there they go into a slow decline. There is a residual danger that if the ground is disturbed during this decline, dormant rhizomes can spring back to life and the problems can start all over again.

John Baguley, Tangible Assets Valuation Director at the Royal Institution of Chartered Surveyors explained that RICS surveyors were there to evaluate the value of a property based on the

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surrounding values. They compare one property with a similar property and then evaluate the plusses and minuses. Japanese knotweed is a minus, as its presence in a garden limits the number of buyers happy to live with it and manage it. A similar property just three doors up, without Japanese knotweed will command a higher price than its impacted neighbour.

During the discussion the Environment Agency were criticized for removing a key document from their website - *Managing Japanese Knotweed on Development Sites – The Knotweed Code of Practice 2013*. However the Environment Agency countered this criticism pointing out that they were told to restrict their remit under “sensible containment” and therefore had their hands tied in this matter. You can access an archived copy of this document [here](https://www.pba-solutions.com/assets/uploads/pdfs-2016/other/EA-knotweed-code-of-practice.pdf). (<https://www.pba-solutions.com/assets/uploads/pdfs-2016/other/EA-knotweed-code-of-practice.pdf>) Whilst we would suggest that over the intervening time from publication certain aspects need to be reviewed, it is, by and large, one of the most informative document still available.

In stating their perspective as the association to maintain best practice amongst member companies the Property Care Association (PCA) did not regard that it was the correct organisation to undertake the review for RICS, but did see that it had a worthwhile role in contributing the industry experience of Japanese knotweed to RICS.

The outcome of the inquiry was that Royal Institution of Chartered Surveyors are required to review the *RICS professional information - Japanese Knotweed and residential property 1st edition, information paper published in 2012*. They were directed to collaborate with the PCA and others to update and rewrite the advice given to surveyors. The PCA are now working with the RICS to provide further guidance.

PBA Solutions’ director Jon Barton was involved in the original working party that advised Royal Institution of Chartered Surveyors on field experience of Japanese knotweed. He was also a founder member of the PCA Invasive Weed Group. He prepared a submission for the Parliamentary inquiry and the following points are distilled from this submission.

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### Introduction

PBA Solutions has been heavily involved, not only in the treatment of Japanese knotweed by herbicides and dig out remediation programmes, but also in writing reports and setting up mortgage backed guarantees which lenders require. As a founding member of the Property Care Association’s Invasive Weed Group and heavily involved in the RICS Information Paper. we have always

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undertaken to keep a balanced perspective on the real impact of Japanese knotweed in relation to the built environment and on the private enjoyment of home-owners' land.

### **The Science behind Japanese Knotweed Management**

We are always interested in reading the research published in this area and then relate it to the experience we have in the real world. From an established invasive weed specialist's perspective the evidence we see regarding the effect of Japanese knotweed on property is mainly as a result of;

- 1) Soil contamination (highly invasive rhizome will impact a large volume of land)
- 2) Exploitation of weakness in built structures by knotweed rhizome (growing in to air gaps, expansion joints, through tarmac)
- 3) Exploitation through adventitious association
  - a. Rhizome will find moisture, such as condensation from underground service pipes or as a result of surface water runoff.
  - b. Rhizome will grow along a building where water sits i.e. between a wall and paving.
  - c. The rhizome will grow into soft mortar, or poorly formed concrete, and contaminate subbase material.

The main issue affecting our clients concerns contamination of land by knotweed. The Swansea University research project<sup>1</sup> clearly identifies that it takes more than 3 years to control knotweed with herbicide. Increasingly clients require knotweed to be eradicated (for legal reasons or due to redevelopment) which by definition excludes herbicide application as a control option, thus rendering excavation, in full or partially with root barrier, the only option. Excavation can be costly as identified by the Olympic Park project, mainly as the impacted material needs to be removed off site and taken to landfill. Onsite solutions such as sifting, and burial are either impractical or not completely effective in terms of achieving eradication.

### **Japanese knotweed and mortgages**

PBA Solutions has been at the forefront in implementing knotweed management plans. Over the last 5 years, or more we have learnt that lenders have differing requirements with regional variation. Solicitors also have differing requirements. Overriding this property sellers and buyers are normally pacified by the fact that the knotweed does not blight the dwelling, but does render the garden space useless. Eradication, meaning the complete removal of Japanese knotweed including its most invasive element the rhizome (root) is increasingly the only option to enable the occupier to enjoy his garden. Legally, case law from *Waistell v Network Rail Infrastructure Limited* put much more focus on the real problem - being **the contamination of land and the cost of remediation**.

Our view is that mortgage based decisions are currently being made in relation to a property through the perception of the problem - 'causation of damage to property'. In light of the Swansea

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University research and *Waistell v Network Rail* it has been suggested to us by environmental practitioners that we are entering a new paradigm in Japanese knotweed management. This being cross-property contamination coupled with the legal and financial burden that such contamination can bring to the property owner.

<sup>1</sup>Optimising physiochemical control of invasive Japanese knotweed. *Biological Invasions*. 20, (8), 2091-2105. Jones, D., Bruce, G., Fowler, M.S., Law-Cooper, R., Graham, I., Abel, A., Street-Perrott, F.A. and Eastwood, D. 2018.

Mortgage lending decisions are currently judged on the consideration that knotweed routinely causes physical damage to built structures, rather than that knotweed is more likely to be a land contaminator which may stop the occupier, or their neighbour, peacefully enjoying their property. This issue of knotweed contamination, based on the *Waistell v Network Rail* case will have legal implications.

Currently there is no sound scientific evidence on the subject of knotweed dormancy as a result it is difficult to determine what happens to rhizome after chemical treatment. This has resulted in clients making decisions to excavate rather than chemically treat, being far more costly both financially and environmentally.

### **What guidance exists for Japanese knotweed management?**

The former Japanese knotweed Code of Practice (COP) by the Environment Agency was written in such a way that lateral thinking in terms of site remediation methods could be used in knotweed remediation. This has been withdrawn, and the new Government RPS178 document does not help the knotweed specialist. Neither does it offer sufficient education to the consumer. A pragmatic approach to Japanese knotweed management does need to be adopted by professional practitioners.

As an accredited specialist it would be beneficial if the Government agencies helped in developing a more robust guidance document which enables a better choice of solutions to be available to the consumer. So that when these are implemented they are recognised as being acceptable and effective.

There are many onsite solutions that need to be developed as control methods to reduce the cost of remediation. One control solution involves partial excavation of Japanese knotweed contaminated soil to a depth of circa 500mm. This smaller excavation is then lined with a root barrier capping using a specialist permeable, composite barrier, and filled with clean top soil. This reduces the amount of waste required to go off site and allows the property occupier to enjoy their garden once

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## Information Paper



implemented. Considerations should be given to guidance on knotweed remediation solutions that deal with contaminated material on site.

In conclusion Government agencies have recently stepped back from providing guidance for the sector. This only leaves guidance developed by the PCA and RICS. The latter is no longer up to date, while the PCA are limited by the funds of their membership.

### Summary

In our experience the principle problem presented by Japanese knotweed is the contamination issue. In cities where garden space is a prized possession, the presence of Japanese knotweed inhibits the quiet enjoyment of that space, resulting in the devaluation of the property at the point of sale. The magnitude of knotweed contamination is as large as the perceived 'causation of damage to property'.

In light of legal case history there appears to be concern over herbicide control as this does not result in eradication on its own. This coupled with the fact that dormancy is not fully understood is why the Japanese knotweed industry may well be seeing itself in a new paradigm. Rather than herbicide control there will be an increasing desire to undertake excavation and removal of knotweed contaminated material as this is the closest solution to eradication.

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In line with the conclusion of the Government Inquiry a working party has met and discussed the way forward. Their second meeting is occurring in early May.

If you would like to discuss the above information paper please call us on 01202 816134 or [info@pba-solutions.com](mailto:info@pba-solutions.com)

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