



IT'S NOT 'BIG IN JAPAN' , IT'S 'BIG IN THE UK' - COURT OF APPEAL RULES LANDOWNERS ENTITLED TO DAMAGES FOR JAPANESE KNOTWEED

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Landowners will be able to claim damages if the plant known as [Japanese knotweed](#) has encroached on their property following a [Court of Appeal](#) ruling in the judgment published on 3 July. The plant, which was a popular feature in Victorian gardens, can undermine the structural integrity of buildings and is very expensive to treat. It has particularly spread around Britain, with roots being carried on trains and along canals, and its presence on a piece of land can severely effect its value and saleability

In the recent judgment, although the case has been ongoing since 2015, Stephen Williams and Robin Waistell, who own two adjoining bungalows in South Wales, [made a claim against Network Rail](#), which owns the land immediately behind their properties. Japanese knotweed has been present on Network Rail's land next to Mr Waistell's house for at least 50 years and the pair first complained about encroachment on to their land in 2013. They later brought a successful claim against Network Rail at Cardiff County Court and were awarded damages in February last year. Network Rail challenged that decision at a Court of Appeal hearing last month, but the court ruled that the homeowners were entitled to damages because the plant's rhizomes had extended beneath both of their properties.

Announcing the decision on Tuesday, Master of the Rolls Sir Terence Etherton said: "*Japanese knotweed, and its roots and rhizomes, does not merely carry the risk of future physical damage to buildings, structures and installations on the land...its presence imposes an immediate burden on landowners who face an increased difficulty in their ability to develop, and in the cost of developing, their land, should they wish to do so, because of the difficulties and expense of eradicating Japanese knotweed from affected land....in this way, Japanese knotweed can fairly be described as a natural hazard which affects landowners' ability fully to use and enjoy their property and, in doing so, interferes with the land's amenity value.*"

As three leading judges ruled in favour of the homeowners whose properties had been affected by the aggressive weed, Anna Douglass, Senior Associate of Collas Crill Real Estate team said that "*this decision could have wider consequences for landowners across the UK where we could see homeowners successfully sue neighbours if the intrusive plant invades their property*". She went on to say that "*it would have to be successfully proven that the knotweed originated on an adjoining property which would render the owner of that property liable for the cost of its removal and any loss of value which could amount to thousands*"

The Law Society's TA6 property information form used by conveyancers in residential property transactions, requires sellers to state

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whether the property is affected by Japanese knotweed and this must be truthfully answered by the Seller or otherwise the buyer could come back to the Seller either rescind the contract or get damages as the property may be worth a lot less than they originally thought.

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FOR MORE INFORMATION PLEASE CONTACT:



MICHAEL MORRIS

Group Partner* // Guernsey

t:+44 (0) 1481 734263 // e:michael.morris@collascrill.com



DONALD MILLAR

Senior Associate* // Guernsey

t:+44 (0) 1481 734828 // e:donald.millar@collascrill.com

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