

Your Legal Questions

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Q I am buying a house and my mortgage application was approved subject to valuation. The surveyor has reported the presence of Japanese Knot Weed in the garden and the lender is now refusing to lend. Why is this and will I be able to get another mortgage?

A Japanese Knot Weed is a pretty ornamental plant introduced to Britain in the 19th Century. What the Victorians did not realise was that the plant can grow at the rate of 1 metre a month and the underground stem (known as the rhizome) can lay dormant in the soil for 20 years before producing new plants.

If you have Knot Weed on your land there is a legal duty to control it to prevent its spread although there is no requirement to remove it. The only real option is to treat it with herbicide but the treatment can take up to 4 years because although the plants die quickly they re-grow from the roots.

According to a recent report from the Royal Institute of Chartered Surveyors (RICS), Knot Weed is unlikely to cause structural problems in houses and should not in theory be a barrier to the purchase of a property. However, it can cause damage and disruption to outbuildings and conservatories and with the need for ongoing management some lenders are simply refusing to lend whether or not there is any logical basis for such an approach.

Discussions between the RICS, the Council of Mortgage Lenders and the Building Societies Association are in hand with a view, hopefully, to formulating a uniform approach by lenders. This may involve some form of standard management plan which could be transferable to subsequent owners backed by a warranty or guarantee to ensure that treatment is carried out.

In the meantime, all that you can do is to approach other lenders to see if they have a more favourable lending policy.

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