

CABINET

17th JANUARY 2022

Subject

**NOTICE OF MOTION REFERRED FROM COUNCIL (10TH NOVEMBER 2021)
JAPANESE KNOTWEED**

Recommendations / key decisions required:

1. To consider the Notice of Motion regarding Japanese Knotweed and to agree on any further actions.

Reasons:

- Full Council, at its meeting held on the 10th November 2021, referred a Notice of Motion in respect of Japanese Knotweed to the Cabinet.

Relevant scrutiny committee to be consulted NO

Cabinet Decision Required YES

Council Decision Required NO

CABINET MEMBER PORTFOLIO HOLDER: Councillor Philip Hughes – Cabinet Member for Public Protection

Directorates: Communities

Jonathan Morgan

Head of Homes and Safer Communities

jmorgan@cararthenshire.gov.uk

Llinos Jenkins

Cabinet Support Officer

LISJenkins@cararthenshire.gov.uk

CABINET SUMMARY

17th JANUARY 2022

NOTICE OF MOTION REFERRED FROM COUNCIL (10TH NOVEMBER 2021) JAPANESE KNOWTWEED

At County Council on the 10th of November, the following Notice of Motion was agreed and is presented to Cabinet for further discussion:

That Council:

- Notes the decision made by the Plaid and Independent administration in 2016 to not [respond] to or taking any formal action with regards to requests on private properties regarding Japanese Knotweed and other invasive non-native plants, which was, and still is, in line with the approach of other Welsh Councils;
- Recognises that the Anti-Social Behaviour, Crime & Policing Act 2014 gave powers to Councils to issue 'Community Protection Notices' to tackle knotweed on private land that has a detrimental effect on the quality of life of the locality and is persistent and unreasonable;
- Notes that, outside Wales, Bristol has utilised these powers to support residents, who have had their lives negatively impacted by the failure of landowners to manage knotweed;
- Calls on this Plaid and Independent administration to reverse their decision and start utilising Community Protection Notices (CPNs) to support to tackle the issue of knotweed on private land causing a detrimental impact residents in many Carmarthenshire communities, and also calls on Welsh Government to urge other councils to consider taking similar action.

The following information may assist the Cabinet in their discussion –

Issues:

1. The powers available to LAs to deal with the issue of invasive weeds (including Japanese Knotweed) are limited. There are provisions, however, contained within the Antisocial Behaviour, Crime and Policing Act 2014, using (CPNs) which in principle would allow the council against a landowner who had JN on their land
2. There are also powers contained within the Wildlife and Countryside Act 1981 which makes it an offence for anyone to plant or cause the species to grow in the wild (this includes undertaking activities that contributes to its spread). This is enforced by the Police.
3. The CPN Powers are rarely used by Local Authorities to tackle Japanese Knotweed, although there are some limited examples.

The main concerns in using CPNs include:

1. A CPN should not be served if the problem affects just one property. This is because to serve a CPN the presence of the Japanese Knotweed at a particular location must cause a nuisance to the wider public
2. Japanese Knotweed is not a species that has any adverse public health effects.
3. For a CPN to be served, the presence of Japanese Knotweed at that location **must** have a detrimental effect on the quality of life of those in the wider locality; be of a persistent or continuing nature; and be unreasonable. This is a subjective assessment and must be evidence based.
4. The Identification of landowners will be an issue in many cases where Japanese Knotweed has established on unregistered / vacant land
5. The treatment of Japanese Knotweed can be very costly and lengthy, requiring a long-term treatment plan; one season of spraying or injection will not be sufficient to control the species. There is likely to be a three-year minimum treatment. In some cases, a 10-year treatment plan will be required and, even then, there is no guarantee of absolute success. Costs vary, but generally three-year treatment plan can be expected to cost in the region of £1,500 for a small-scale domestic property to £3-£4,000 for a more heavily infected domestic property. The prices will vary depending on contractor used and site-specific circumstances. In any event, a contractor who is Property Care Association Registered will be required.
6. Non-compliance with a CPN is an offence. Individual householders, therefore, who receive a CPN will be criminalised if they are unable to afford the cost of undertaking the work to treat the Japanese Knotweed on their land properly. This would disproportionately impact on poorer households in the County.
7. Due to the long-term nature of the treatment, the compliance with a notice could take several years to determine. Although a recognised treatment plan would aid in this regard, LA's cannot stipulate that one should be entered into – recipients would be free to choose how they remove the knotweed. This could lead to householders attempting “DIY” treatments which could cause more harm through unintended consequences e.g. uncontrolled application of chemicals and burning and risk spreading the Japanese Knotweed even further.
8. The full scale of the problem both at a county and national level is not clear. A ‘Heat map’ published by the Woking based company Environet Uk Ltd earlier this year relied on members of the public reporting sightings of Japanese Knotweed. This identified over 500,000 locations nationally, with particularly high concentrations in urban and former industrial areas in North West England, the Midlands, London and South Wales. Swansea and Llanelli were in the top 10 locations nationally, although the heat map shows hundreds of locations across the County where Japanese Knotweed has been reported. It is possible however, that this is an underreporting of the level of Japanese Knotweed due to the way in which the data is gathered.

9. Given the complex and lengthy nature of any investigation into and subsequent treatment of JN, there would be a considerable resource required to undertake this function across the County. There is no current capacity within existing resources to carry out this work.
10. In the event of non-compliance with a CPN, the Council would have the option of carrying out works in default and recovering the cost from landowners. This would place a financial burden on the Council. Again, there would be no guarantee that the works in default would eradicate the JN and the Council would be at risk of compensation claims if the works in default caused damage to the landowner's property. It may prove difficult to recover any costs from poorer households.
11. The Royal Institute of Chartered Surveyors (RICS) are in the process of updating their guidance to establish a management framework that sets out how house sales can proceed, even where knotweed is found. This is likely to have an impact on the decision process when considering whether a CPN is appropriate.
12. Large land owners in Carmarthenshire, including the Council and NRW, proactively maintain their areas of land and treat JN where it is evident. A policy of issuing CPNs will therefore impact predominantly on individual householders.

Alternative approaches to enforcement by way of CPN

Given the impact of enforcement action on householders, both in terms of cost and possible criminal sanction, the Council could consider the following alternative approaches:

- Continue with its current practice of advising affected landowners and signposting them to sources of guidance. This is the approach adopted by most local authorities; and
- Viewing the situation as a commercial opportunity to offer Japanese Knotweed treatment services to the public, either directly on a cost recovery basis or more commercially through a potential trading company. Expertise in this area would be needed to develop and implement.

DETAILED REPORT ATTACHED?	No
----------------------------------	-----------

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: Jonathan Morgan, Head of Homes and Safer Communities

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
YES	YES	YES	NO	YES	YES	NO

Policy, Crime & Disorder and Equalities

Current Environmental Protection Policies do not include provision for dealing with Japanese Knotweed as a “nuisance” species. If the decision not to investigate is reversed, policies will need to be reviewed and updated accordingly.

Non-compliance with any enforcement action will be a criminal offence, which may disproportionately affect poorer residents who do not have the financial means to carry out works that are required.

Legal

The primary legal powers to deal with invasive plants, including JK, are specified in points 1 and 2 in the Executive Summary.

Finance

Additional resources would be required to deal with this matter including taking enforcement action or legal redress where required. Further work would be needed on more accurate financial implications

Risk Management

A decision to deal with JK without adequately resourcing could result in a failure to deliver the function. This could lead to additional risks to the Authority from our Corporate Complaints process and the Public Services Ombudsman for Wales.

The Council will continue, however, to control and limit growth of JK on its own land.

Staffing implications

A decision to deal with Japanese Knotweed will have implications on staff resourcing. It will lead to an increase in workloads and public expectation in an area of work that will require substantial training and expertise to deliver.

It will also require the necessary staff resources to deal with lengthy and complex investigations which are sufficiently robust to withstand any enforcement / legal challenges.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: **Jonathan Morgan, Head of Homes and Safer Communities**

1.Scrutiny Committee

Not applicable

2.Local Member(s)

Not applicable

3.Community / Town Council

Not applicable

4.Relevant Partners

Not applicable

5.Staff Side Representatives and other Organisations

Not applicable

**CABINET PORTFOLIO HOLDER(S)
AWARE/CONSULTED - YES**

Cllr Philip Hughes supported the NoM at the County Council meeting on the 10th November

**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Council Meeting 15 th September 2021 Link to agenda and minutes		Agenda for County Council on Wednesday, 10th November, 2021, 10.00 am (gov.wales)

**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

N/A