

London Area, there is no practical way of policing the order. The breach of the ASBO will occur at the same time as the commission of any further offence in a hotel, guesthouse, or similar premises. The ASBO achieves nothing— if she is not to be deterred by the prospect of imprisonment for committing the offence, she is unlikely to be deterred by the prospect of being sentenced for breach of the ASBO. By committing the substantive offence, she will have committed the further offence of being in breach of her ASBO, but to what avail? The criminal statistics will show two offences rather than one. If on the other hand she “worked” a limited number of establishments, it would be practical to supervise compliance with the order. The establishments could be pulled on notice about her and should she enter the premises the police could be called, whether her no Live in entering the premises was honest or not. In Rush 12005] EWCA Grim 1316; [2006] 1 Cr. App. R. (S.) 35 (p.200) the appellant appealed against a sentence of 30 months’ imprisonment and an ASBO of 10 years’ duration following a plea to burglary. The burglary involved pushing into his parents’ house (where he no longer lived) and stealing cigarettes from a cupboard. The appellant had a history of previous offending that was almost entirely targeted at his parents. The Court of Appeal reduced the sentence for the burglary to 12 months’ imprisonment and the duration of the ASBO to five years. In so doing, they said that the making of an ASBO should not be a normal part of the sentencing process especially if the case did not involve harassment or intimidation. Imposing an ASBO was a course to be taken in particular circumstances. In McGrath the Court observed that ASBOs should be treated with a proper degree of caution and circumspection. They were not cure-alls and were not lightly to be imposed (para.fi 2]),

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R. V DEAN BONES and Other’s

In Lonergan the Divisional Court held that it was lawful for a prohibition in the nature of a curfew to be included in an ASBO made under s. 1 CDA 1998 if its imposition was necessary to provide protection for others.

With these general observations in mind, we turn to the appeals against the ASBOs.

The Dean Bones ASBO

In favour of making an ASBO was the fact that the appellant had consistently engaged in anti-social behaviour over a period of approximately three years. He was a persistent prolific offender and had admitted to drug misuse in the community. There were three main aspects to his anti-social behaviour: threatening behaviour (two incidents), vehicle crime (three incidents) and other offences of dishonesty such as burglary and theft (three incidents and other incidents of handling stolen goods). On the other hand, he was being sentenced to a custodial sentence of three years’ detention in a young offender institution and was thus subject to a period on licence and subject to recall or return to custody.

The respondent accepts, on the authorities and in particular having regard to (para.[25] above) that it is far from clear that it was necessary to make an ASBO in respect of the appellant. We agree.

We turn to the various orders. The first order prohibited the appellant from:

Entering any public car park within the Basingstoke and Deane Borough Council area, except in the course of lawful employment.

The respondent submits:

“The antecedent information does not state whether any of the vehicle crimes committed by the appellant took place in a public car park. However, it is submitted that it could sensibly be argued that a person intent on committing vehicle crime is likely to be attracted to car parks.