that this was an inappropriate and improper use of the power because the behaviour it sought to protect the public from was only anti-social in the sense that all criminal offences were anti-social and it was not the sort of behaviour that ASBOs were meant to target. The Court of Appeal declined to express a definitive view on this issue and quashed the order on a different ground, but they did make the following observations. The forms of conduct listed on p.8 of the 2002 Home Office guide have a direct or indirect impact on the quality of life of people living in the community. They are different in character from offences of dishonesty committed in private against individual victims, distressing though such offences are to the victims. The Court said that it would not like to be taken to say that in no case could offences of this sort attract such an order.

It seems to us that there is another problem with the kind of order in *Werner*. In the absence of a system to warn all hotels, guesthouses or similar premises anywhere within the Greater 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 put on notice about her and should she enter the premises the police could be called, whether her motive in entering the premises was honest or not.

In *Rush* [2005] EWCA Crim 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. [12]).

49 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.l CDA 1998 if its imposition was necessary to provide protection for others.

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

The Dean Boness ASBO

51 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