

79 Given the appellant's previous history the first part of the prohibition can be justified as necessary. As the respondent points out, the final clause would appear to prohibit the appellant from attending sporting or other outdoor events. Such a prohibition is, in our view, disproportionate. Although, as the respondent points out, the appellant would be able to argue that he had a reasonable excuse for attending the event, this is, in our view, an insufficient safeguard.

80 The eleventh order prohibited the appellant from:

Doing anything which may cause damage.

81 The respondent submits that this prohibition, even if justified (which is far from clear), is far too wide. In the words of the respondent: "Is the appellant prohibited from scuffing his shoes?" We agree.

82 The twelfth order prohibited the appellant from:

Not being anywhere but your home address as listed on this order between 2330 hours and 0700 hours or at an alternative address as agreed in advance with the prolific and priority offender officer or anti-social behaviour co-ordinator at Basingstoke Police Station.

83 Although curfews can properly be included in an ASBO, we doubt, as does the respondent, that such an order was necessary in this case. Although the offences of interfering with a motor vehicle and attempted burglary (for which the appellant was sentenced on 16/5/02) were both committed between 10pm and midnight on the same evening, there is no suggestion that other offences have been committed at night. Moreover, the author of the pre-sentence report states that the appellant's offending behaviour did not fit a pattern which could be controlled by the use of a curfew order.

84 We would go further than the respondent. Even if an ASBO was justified a 5 year curfew to follow release is not, in our view, proportionate.

85 The thirteenth order prohibited the appellant from:

Being carried on any vehicle other than a vehicle in lawful use.

86 The respondent submits this prohibition is sufficiently clear and proportionate. We are not convinced. We do not find the expression "lawful use" to be free from difficulty. If "the carrying" is likely to constitute a specific criminal offence (eg one of the family of taking without consent offences), what does this order add? We would also have preferred some geographical limit.

87 The final order prohibited the appellant from:

Being in the company of Jason Arnold, Richard Ashman, Corrine Barlow, Mark Bicknell, Joseph (Joe) Burford, Sean Condon, Alan Dawkins, Simon Lee, Daniel (Danny) Malcolm, Michael March or Nathan Threshie.

88 The respondent submits:

"This prohibition seems to be based on the assertion in PC Woods' document that the appellant is associating with other criminals who were also nominated as persistent prolific offenders. The appellant admitted that the