

## THE HIGH COURT

2006 No. 1462 J.R.

BETWEEN

JOSEPH MAGEE

APPLICANT

AND

PATRICK MURRAY AND DENNIS ROCHE

RESPONDENTS

**Judgment of Mr. Justice Birmingham delivered on the 24th day of November, 2008**

1. The applicant is a gun enthusiast, the owner of a number of firearms including a Sig pistol. He has applied to the respondents for a firearms certificate in respect of that pistol. They have issued a certificate to him, but in doing so, have imposed, or have purported to impose, conditions. The applicant contends that in doing so, they exceeded their authority and that, in providing for conditions, and in particular, those set out in this certificate, the respondents acted in a manner that was *ultra vires*.

2. Before coming to the specifics of the case, it is worth putting the present proceedings in context. In the course of a letter sent by the solicitors for the applicant to the Garda Authorities, reference is made to the fact that the National Association of Regional Game Council, the representative body to which the applicant is affiliated, has supported and sponsored dozens of legal challenges. Certainly, it is the case that the legislation in issue in these proceedings has been the subject of no less than three written judgments, by three different High Court judges, during the period May to July, 2008.

3. It is accepted on both sides that the issue in this case is a net one. While it might be possible to determine the legal issues without any detailed consideration of the factual background, it nonetheless seems desirable to refer briefly to the history of the present controversy.

4. The applicant is, as I have stated, a gun enthusiast owning a number of firearms and he participates in various recreational activities such as game shooting, vermin control, clay pigeon shooting and target shooting. He is a member of several gun clubs including Hilltop Shooting Club. This particular club operates a firing range at Newtownmountkenedy, County Wicklow.

5. In January, 2006 he acquired a Sig pistol (serial no. A018716), to which I have referred, and applied for and obtained a firearms certificate. While this has not been spelled out in any great detail, it appears clear that he gave the gardaí to understand that, his intention in acquiring the handgun was to use it for target shooting at the Hilltop Range. A certificate was issued to him in what might be described as a standard form, a certificate that would have been generated by computer at Garda Headquarters. The form of the certificate is not really suitable for a pistol as it contains on its face a reference to hunting birds and animals. The printed form also contained a recital that the holder of the certificate, holds a certificate in respect of "another shotgun" offering a further clue that as printed out, it was designed for applications in respect of shotguns.

6. In the ordinary course of events, the applicant would have expected to have his certificate renewed annually. However, on the 2nd August, 2006, he received a letter informing him that the certificate had not been renewed. Much of the correspondence that preceded these proceedings, centred on the refusal to renew the certificate. However, that aspect has been resolved and, it is unnecessary to review the exchange of correspondence in any detail. Suffice to say, that the gardaí seemed to have had concerns about the safety of the Hilltop Range, but when certain improvement works were carried out this aspect was resolved to their satisfaction. At that stage a certificate issued. Unlike the original certificate, this would seem to have been created in Wicklow and was clearly specific to the present applicant.

7. The document purported to impose a number of conditions on the carrying and use of the firearm, and to make the certificate conditional on compliance. The conditions as they appear are as follows:-

"A. Have in his possession and carry a Pistol unloaded by Sig. of .22 Inches, bearing I.D. No. A018176 only while travelling to and from a Firing Range specifically authorised under the Firearms Act 1925, of which the said holder is a member.

B. Have in his possession and carry a[n] unloaded Pistol by Sig. of .22 Inches, bearing I.D. No. A018176 only while travelling to and from a Firing Range specifically authorised under the Firearms Act 1925, for Competition purposes.

C. To use the said .22 Inches Pistol I.D. A018176 mark only at a Firing Range specifically authorised under the Firearms Act 1925, of which the said holder is a member.

D. The certificate may be used to purchase rounds of ammunition therefore, provided he shall not have in his possession or carry, at any one time, more than 100 rounds of ammunition, thereof."

8. While it seems clear that what was intended was that the applicant would be permitted to transport the gun to the Hilltop Range and fire it there, and also to transport it to other suitable ranges so that the applicant could participate in competitions, the document on its face does not specifically authorise its use in competitions at ranges other than Hilltop. An affidavit sworn by the first named respondent puts the intention beyond doubt. If there was ever any ambiguity or uncertainty in relation to this aspect, this was a matter that was eminently capable of being sorted out by a quick phone call and it is not a major issue in the context of the present proceedings.

9. The applicant is not at all happy that the certificate issued to him was a restricted one subject to conditions and in these proceedings, he challenges the entitlement of the respondent to impose these, or indeed any conditions.

10. At this stage it is necessary to refer to the statutory scheme providing for the control of firearms. Before considering the legislation in any detail, it should be noted that unlike in the United States, there is no constitutional entitlement to bear arms. As Charleton J. has recently pointed out in *McCarron v. Kearney* (Unreported, High Court, Charleton J., 4th July, 2008) at p. 6:-

"The possession of every firearm is illegal, unless it is authorised by law. The possession of a firearm is not a right but is a privilege".

11. The essential law regulating the use and possession of firearms is contained in six Acts of the Oireachtas, five of which, the Firearms Acts 1925, 1964 and 1971, as well as the Firearms and Offensive Weapons Act 1990, and the Firearms (Proofing) Act 1968,

were in force at the time with which this case is concerned, as well as a number of statutory instruments. This area has also been the subject of legislative attention in the Criminal Justice Act 2006, but the relevant provisions had not been brought into force at the time the superintendent issued his certificate.

12. The Acts most relevant to the present proceedings are the Firearms Act 1925, and the Firearms Act 1964. Section 2 of the Act of 1925 provides as follows:-

"2.—(1) Subject to the exceptions from this section hereinafter mentioned, it shall not be lawful for any person after the commencement of this Act to have in his possession, use, or carry any firearm or ammunition save in so far as such possession, use, or carriage is authorised by a firearm certificate granted under this Act and for the time being in force."

13. This subsection contains a general prohibition subject to exceptions on having in ones possession, using or carrying any firearm or ammunition, other than when authorised by a firearms certificate.

14. Subsection 2 provides as follows:-

"(2) Save in any of the cases hereinafter excepted from this section, every person who after the commencement of this Act has in his possession, uses, or carries any firearm without holding a firearm certificate therefor or otherwise than as authorised by such certificate, or purchases, uses, has in his possession, or carries any ammunition without holding a firearm certificate therefor or in quantities in excess of those authorised by such certificate, or fails to comply with any condition subject to which a firearm certificate was granted to him, shall be guilty of an offence under this Act and shall be punishable accordingly."

15. In the context of the issues that arise in the present proceedings, I draw attention to the fact that subs. 2 makes it a punishable offence to be in possession of, to use, or to carry a firearm otherwise than authorised. To avoid the commission of an offence, it is necessary that one holds the certificate and that the possession, use or carrying shall not be otherwise than as authorised by the certificate. A punishable offence is also committed if ammunition is purchased, possessed and/or carried in excess of a quantity specified in the certificate. The section does not in express terms provide that a specific quantity of ammunition can or should be stipulated in the certificate, but that is clearly contemplated. Of particular significance is that a punishable offence is also committed if there is a failure to comply with any condition subject to which a firearms certificate was granted.

16. Subsection 3 provides as follows:-

"(3) This section shall not apply to any of the following cases and such cases are accordingly excepted from this section, that is to say:— "

17. It is unnecessary to quote this subsection, which is a lengthy one, in full but it in essence, lists the some eight situations which fall outside the prohibition contained in subs. 2, including possession by a firearms dealer in the ordinary course of his business, possession by the defence forces or police, or possession of a humane killer by a butcher or knacker. Subsection 3 was amended by the Firearms Act 1964, in two respects. It extends the exemption for humane killers to ammunition and, more relevantly, it inserts a new subsection which expands the list of exceptions that had originally been provided by subsection 3. The provision of most interest in the context of the present proceedings is subsection 4(d):-

"The possession, use or carriage of a firearm or ammunition by a member of a rifle club or other gun club that stands authorised under this section while engaged as such member in a competition or target practice at a range or other place that stands authorised under this section."

18. However, in so far as the applicant's complaint is that he sought and obtained a firearms certificate, though one subject to objectionable conditions, the fact that he might in certain circumstances have been entitled to possess, use or carry a firearm and ammunition without the necessity for a certificate is of only limited interest.

19. Section 4 of the Firearms Act 1925, is a crucial section. It provides as follows:-

"Before granting a firearm certificate to any person under this Act the superintendent of the Garda Síochána or the Minister (as the case may require) shall be satisfied that such person—

(a) has a good reason for requiring the firearm in respect of which the certificate is applied for, and

(b) can be permitted to have in his possession, use, and carry a firearm or ammunition without danger to the public safety or to the peace, and

(c) is not a person declared by this Act to be disqualified to hold a firearm certificate."

20. There is no suggestion that the applicant is a person disqualified to hold a firearm certificate. Accordingly, in deciding whether to issue a certificate the two issues with which the superintendent and inspector were concerned were whether the applicant had a good reason for requiring the pistol and whether he was a person who could be permitted to use or possess a firearm without danger to the public.

21. Section 5 of the Firearms Act 1925, provides as follows:-

"The superintendent of the Garda Síochána of the district in which the holder of a firearm certificate resides may at any time revoke such certificate if he is satisfied that the holder of such certificate—

(a) has no good reason for requiring the firearm to which the certificate relates, or

(b) is a person who cannot, without danger to the public safety or to the peace, be permitted to have a firearm in his possession, or

(c) is a person who is declared by this Act to be disqualified to hold a firearm certificate, or

(d) where the firearm certificate limits the purposes for which the firearm to which it relates may be used, is using

such firearm for purposes not authorised by the certificate.”

22. The significance of this section is the reference at (d) to the situation where a certificate limits the purposes for which a firearm may be used and the firearm is used for a purpose not authorised.

23. Section 2, subs. 5 of the Act of 1925, as inserted by the Act of 1964, is of some interest. Subsection 5(a) provides that:-

“The Superintendent of any district may authorise in writing the possession, use or carriage of firearms or ammunition in that district in any of the circumstances specified in paragraphs (d), (e), (f), (g) or (h) of subsection (4) of this section during such period, not exceeding one year, as may be specified in the authorisation.”

Subsection 5(b) provides:-

“A Superintendent shall not grant an authorisation under this section unless he is satisfied having regard to all the circumstances (including the provision made or to be made for the storage of the firearms and ammunition to which the authorisation (if granted) would relate and the supervision of their use) that the possession, use or carriage, as the case may be, of firearms or ammunition in pursuance of the authorisation will not endanger the public safety or the peace.”

Subsection 5(d) provides:-

“A Superintendent may impose in relation to the grant of an authorisation under this section such conditions (if any) as he considers necessary to prevent danger to the public and, where a condition is imposed, it shall be specified in the authorisation.

Subsection 5(e) provides:-

“An authorisation under this section may be revoked at any time by the Superintendent of the district in which it is granted.”

Subsection 5(f) provides:-

“A person who contravenes a condition imposed in relation to the grant of an authorisation under this section shall be guilty of an offence under this Act.”

24. The question arises as to what is meant by an authorisation under this section. On an initial reading one would have thought that this phrase is broad enough to encompass a firearms certificate, possession of which is in general, and subject to the listed exceptions, required if an offence is to be avoided. However, on closer reading it appears that the authorisations provided for under this section, are those that are granted in a situation where there is no requirement for a certificate. Accordingly, subs. 4 as inserted by the Act of 1964, would not appear to provide an express statutory basis for the imposition of conditions intended to prevent danger to the public in non accepted situations, that is to say, in situations where a firearms certificate is required.

25. Section 3 of the Act of 1925 as amended by the Act of 1964 so far as is relevant provides as follows:-

“The superintendent of the Garda Síochána of any district may, subject to the limitations and restrictions imposed by this Act, upon the application of any person residing in such district and upon the payment by such person of the fee (if any) for the time being required by law, grant to such person a firearm certificate.”

Subsection 4 provides as follows:-

“Every firearm certificate shall be in the prescribed form and shall operate and be expressed to authorise the person to whom the same is granted—

(a) to have in his possession, use, and carry the particular firearm described in the certificate, and

(b) to use ammunition in the firearm and to have in his possession at any one time and carry so much ammunition for the firearm as shall be prescribed in the certificate.”

26. The reference to the fact that a firearms certificate in the prescribed form shall operate and be expressed to authorise the possession, use and carriage of the firearm and ammunition will be noted. This is a provision on which the applicant places particular reliance. Again the reference to a specification in the certificate in relation to the quantity of ammunition will also be noted.

### Submissions

27. On behalf of the applicant, Mr. Gerard Hogan S.C., argues that there is no express power to impose conditions. He says if there was any such power, one would expect to see it set out clearly and in express terms. He draws attention to the fact that the Act does deal with limitations on the quantity of ammunition and that causes him to contend that this is a case where the *maxim expressio unius est exclusio alterius* (the expression of the one is the exclusion of the other) is of relevance, though he does not go so far as to suggest that the case can be determined by reference to this maxim.

28. In so far as the respondent is forced to contend for the existence of implied powers, Mr. Hogan argues that this is not consistent with the approach taken by the Supreme Court in *Dunne v. Donohoe* [2002] 2 I.R. 533. Sections 3(4)(a) and 3(4)(b) of the Act of 1925 read together, it is said, provide an express and unrestricted authority to engage in the conduct described. They have that effect once the gardaí are satisfied that the conditions for the issue of a certificate set out in s. 4 are met and issue a certificate.

29. Before the court could contemplate the recognition of an implied term, a three tiered obstacle would have to be overcome. Such powers could only ever be implied where (1) that is justified by the statutory context, (2) the power contended for is not of such a nature that one would expect to see set out specifically and (3) the power contended for is consistent with the statutory scheme. He says that if these three tests are applied to this case, then each one of them is firmly against the suggestion that powers can be implied. He refers to cases such as *O'Neill v. the Minister for Agriculture and Science* [1998] 1 I.R. 539 and *Ashbourne Holdings v. An Bord Pleanála* [2003] 2 I.R. 114, to demonstrate the reluctance of the courts to accept that fundamental and wide ranging powers can be read into a statute.

30. Mr. Mícheál O'Higgins S.C., on behalf of the respondent argues that this is essentially a vires case. He points out that the gardaí were clearly motivated by concerns to ensure public safety, and he says that approach is consistent with and derives from the terms of s. 4(b) of the Act of 1925. The actions of the superintendent and inspector were rooted in s. 4(b) and derived their authority from that section. Section 4(b) of the Act of 1925 must be read in conjunction with the newly inserted s. 2(5)(d) which he sees as a provision of wide application.

### Conclusion

31. I should say, first of all, that I am satisfied notwithstanding the submissions on behalf of the respondent that ss. 2(5)(b) and 2(5)(d) of the Firearms Act 1925, as amended, offer no assistance to the respondent. If these subsections could be interpreted as having any relevance to firearm certificates, then *Dunne v. Donohoe* would have been decided differently.

32. Accepting as I do that this is a vires case, and that the issue is whether powers can be implied which would provide a basis for the conditions imposed, I take as my starting point the three tier test suggested by Mr. Hogan.

33. The statutory context here is one of control and restriction. The long title of the Act of 1925 describes it as an Act that is to place restrictions on the possession of firearms and other weapons and ammunition and for that and other purposes to amend the law relating to firearms and other weapons and ammunition. There are elements within the Act which seem consistent only with a belief on the part of the legislators that they were providing for certification which could be subject to conditions. So s. 2(2) of the Act of 1925 makes it an offence to fail "to comply with any condition subject to which a firearm certificate was granted" (emphasis added). Moreover, s. 5(d) provides for the revocation of a certificate in a situation where the firearm certificate limits the purpose for which the firearm to which it relates is used but is in fact used for non-authorised purposes. The combined effect of these sections is to indicate that at least some conditions can be imposed and some limitations placed on the extent of the authorisation.

34. So far as the question of whether it is the case that one would expect to see powers to impose conditions set out specifically, I am of the view that while that might well be so if one was dealing with a modern statute, this argument has much less force when dealing with a statute dating to 1925. I would suspect that parliamentarians of that era would have been astonished if it was suggested to them that a superintendent who was entitled to refuse a certificate altogether was not entitled to take the much less radical step of issuing a certificate subject to conditions.

35. As to the question of whether the ability to impose conditions is consistent with the statutory scheme I am firmly of the view that the ability to impose conditions is entirely consistent with the approach of the statute.

36. In my view this is a case where the powers contended for can fairly be described as incidental or consequential and as such ought not to be regarded as *ultra vires*.

37. In the course of argument Mr. Hogan S.C., as I have stated, has referred to cases such as *O'Neill v. Minister for Agriculture*, [1998] 1 I.R. 539 and *Ashbourne Holdings v. An Bord Pleanála*, [2003] 2 I.R. 114. However, in my view the powers and issues in those cases were of an entirely different order. In *O'Neill v. Minister for Agriculture*, the Minister had purported to provide for what was described as an exclusivity approach to artificial insemination. The Supreme Court was of the view that such an exclusivity scheme was so radical in qualifying some individuals and disqualifying others equally competent and well qualified, that so far-reaching an intrusion on the rights of citizens could have not have been contemplated. It is a measure of how radical was the proposal that two members of the court, Murphy J. and Hamilton C.J. expressed doubts as to whether even the Oireachtas itself could have agreed to such an exclusivity scheme. Given those strongly expressed views it is hardly surprising that the court was so firmly of the view that such radical powers could never have been implicitly delegated.

38. The powers in issue in *Ashbourne* were if anything, even more radical again. In that case what was in issue was whether as a condition of granting approval for a development of a golf course on the Old Head of Kinsale, An Bord Pleanála could insist on public access over lands where such a right had never previously existed. In that case the Supreme Court was of the view that it was particularly important in the public interest not to uphold *ultra vires* conditions in planning decisions so as to safeguard the integrity and transparency of the planning code.

39. In contrast it seems to me that cases such as *Dublin Corporation v. Raso*, [1976-77] I.L.R.M. 139 are more in point. That case dealt with the entitlement of a planning authority to impose restrictions on the opening hours of a fish and chip shop. The objective of cutting down nuisance, noise and the frequenting or gathering of people so as not to disturb the residential character of a neighbourhood could have been achieved by refusing permission for a change of use to a fish and chip shop but could also be advanced by the imposition of restrictions. In those circumstances, the imposition of restrictions was acceptable. It may be said similarly that the objective of promoting public safety might be achieved by denying access to such weapons but can also be advanced by providing that such a weapon would only be used or carried in controlled circumstances.

40. The decision of Kelly J. in *Director of Consumer Affairs v. Governor and Company of the Bank of Ireland*, [2003] 2 I.R. 217 seems particularly in point. This was a case that concerned a directive under the Consumer Credit Act 1995, which responded to, and arose out of, a submission seeking authorisation of services by approving same, subject to conditions. The effect of the conditions specified was that the service in respect of which the approval was granted, was not that sought initially. The remarks of Kelly J. at pp. 239 - 240 on one aspect of the case merit quotation.

"If the statutory provisions were to be applied in an absolutely strict way then the defendant, upon receipt of a direction not to impose charges, would have to re-present proposals to the plaintiff for a fresh set of charges until eventually they might or might not satisfy her. The process could go on endlessly. The plaintiff in the present case, obviously recognising the shortcomings in the statutory scheme, adopted a sensible approach with a view to try to make it work. Rather than simply issuing a direction under the section, she went on to indicate the basis upon which she would be prepared to approve the charges in respect of both services. I am quite satisfied that she was entitled to adopt that procedure since it did no more than telescope in a sensible way the more cumbersome statutory procedure."

The language of Kelly J. could be applied very comfortably to the approach taken by the superintendent and inspector in the present case.

41. Before concluding I should refer to the firearm decisions of recent times. In issue in the case of *Dunne v. Donohoe*, [2002] 2 I.R. 533 was a directive issued to all Garda Superintendents from an Assistant Commissioner of the force instructing them to insist on firearm safes being present before issuing a certificate. Both in the High Court and the Supreme Court the case really turned on the question of the status of a superintendent as a *persona designata*, required as such to make a personal decision and who could not be directed as to how that discretion should be exercised. However, it will be noted that at the end of his judgment in the High Court,

O'Caoimh J. commented as follows:-

"I am of the opinion that the provisions of s. 4(b) of the Act of 1925 are such as not to restrict the ambit to consideration as to the personal attributes of an applicant for a firearm certificate but may relate to the circumstances in which he/she may have a firearm in his/her possession without danger to the public safety or to the peace... I wish to state that this Court expresses no concluded view as to how far a superintendent may go in the context of the exercise of his powers under s. 4(b) of the Act of 1925 other than indicating that he may not impose preconditions of the nature sought to be imposed by the commissioner in this case and the commissioner is not entitled to interfere with the superintendent in the exercise of his functions under the Act."

42. Delivering the judgment of the Supreme Court Keane C.J., at p. 543 commented on that passage in these terms:-

"That passage, admittedly *obiter*, would appear to suggest that, in the view of the learned High Court Judge, it would be open to a superintendent, in the circumstances of a particular case, to stipulate that the holder of one or more firearms could be required, as a condition of being granted a licence, or obtaining a renewal of a licence, to keep the firearm or firearms, when not in use, locked in a firearms cabinet. No notice to vary was served in respect of that passage, and understandably so, since this did not form any part of the reasoning by which the learned High Court Judge arrived at his decision. It is, accordingly, unnecessary to express any view as to the circumstances in which the imposition of such a condition might constitute the appropriate exercise of a discretion vested in a superintendent under the Act of 1925 or the implementation of a policy by him of an inflexible and rigid nature which would be inconsistent with the proper exercise of that discretion."

43. Both the High Court and the Supreme Court seem to leave open the possibility of the imposition of conditions. Keane C.J. contemplated two possibilities; the imposition of a condition that might constitute an appropriate exercise of a discretion as distinct from a situation where the implementation of a policy to impose a particular condition might amount to the adoption of an inflexible and rigid policy.

44. It does not seem to me that either the High Court or the Supreme Court decision offer support for the argument that conditions cannot be imposed at all.

45. The case of *Goodison v. Sheahan* (Unreported, High Court, Peart J., 2nd May, 2008), as in this case, involved an application for an authorisation for a semi-automatic pistol. In that case one of the two reasons given for refusing authorisation was that the decision maker was not satisfied that such a pistol can be used without danger to the public. Peart J. noted that the reason given did not refer specifically to either s. 4(a) (having a good reason for requiring the firearm) or s. 4(b) (a person who can be permitted to have in his possession, a firearm without danger to the public). He was of the view that it could have relevance only in the context of s. 4(b), and that there was nothing in the provision which entitled the respondent to consider the applicant's suitability in relation to a particular weapon where certificates are held in respect of other firearms. Having regard to the very wide definition of "firearm", I find that conclusion somewhat surprising. Does it necessarily follow that because the view was taken that a person could safely possess a crossbow, that he is also a person who can possess a fully automatic machine gun without danger to the public?

46. Having regard to his view that issues of public safety can only be addressed in relation to the applicant's personal suitability under s. 4(b) of the Act of 1925, and that the applicant could not be said to be a person who could not be permitted to have in his possession a firearm, he quashed the decision.

47. The case of *O'Leary v. Maher* (Unreported, High Court, Clark J., 24th April, 2008) was one that to a very large extent turned on its own facts and in particular the rather remarkable fact that the superintendent while refusing the certificate sought for a high calibre rifle had in the past issued a certificate in respect of an even more powerful weapon and was indicating a willingness to authorise just such a weapon for the applicant. Against that background Clark J. was of the view that the superintendent did not have the right to refuse the application before him on the basis of the calibre of the gun, rather than on the consideration of the applicant as a person who would use that particular gun safely.

48. Of interest is that when dealing with an issue which appeared to be causing concern, namely that the weapon was capable of firing ammunition of a military character, she commented that the superintendent had the power to attach conditions as to the type and quantity of ammunition for use.

49. While s. 3(4) of the Act of 1925 does contain a reference to limitations on the quantity of ammunition to be purchased or carried it contains no reference whatever to limitations on the type. Accordingly, insofar as Clark J. was saying there was a power to impose conditions in relation to the type of ammunition, she was recognising the existence of an implied power to impose conditions.

50. In the course of his judgment in *McCarron v. Kearney* (Unreported, High Court, Charleton J., 4th July, 2008), Charleton J., at p. 11 commented as follows:-

"In general, the more dangerous the weapon, the greater the burden borne by a person applying for a firearm certificate to show that he or she has good reason for seeking to possess and use that particular weapon. Under the Act, considerations of calibre, ammunition type that may be used, lethal effect or danger over what distance, velocity of the ammunition, and the size and shape of the gun and the use to which the weapon may be put are clearly factors of high importance."

51. With that view, so expressed, I find myself in complete and respectful agreement. In the present case authorisation is sought in respect of a powerful pistol. The only conceivable legitimate basis for possessing, using or carrying such a weapon is in the context of organised competitive target shooting. The good reason contended for is the desire to participate in such activity. Given the particularly dangerous nature of the firearm in question and it will be noted that it is characterized as such by statute under the Firearms (Dangerous Weapons) Order, 1972, it is entirely understandable that a superintendent would be concerned indeed at the dangers associated with authorising the possession of such a weapon. It is also entirely understandable that he would take the view that if, notwithstanding the characteristics of the weapon, he was prepared to authorise its possession in any circumstance, that he would wish to impose conditions designed to ensure so far as possible that the possession, use or carrying was strictly in the context that had been advanced as the good reason why the weapon was required. In my view, there is absolutely nothing in the Statutory Firearms Code that prevented him from approaching the issue in the way he did. In these circumstances, I propose to refuse the relief sought.

