

Decision No. 74724

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
the COUNTY OF SAN DIEGO to Construct  
Overheads over the Tracks of THE  
ATCHISON, TOPEKA AND SANTA FE RAIL-  
WAY COMPANY at Birmingham and  
Liverpool Drives, Cardiff.

Application No. 50278

(Filed May 29, 1968)

- John J. McEvoy and D. K. Speer,  
for the County of San Diego,  
applicant.
- Mrs. Joan Slavinski, for Cardiff-  
by-the-Sea Chamber of Commerce,  
protestant.
- William S. Mills, for himself and  
various citizens and property  
owners of Cardiff-by-the-Sea,  
protestant.
- Girard W. Aneer, for Cardiff  
Citizens' Committee, protestant.
- George E. Cilley, for himself and  
various citizens and property  
owners of Cardiff-by-the-Sea,  
interested party.
- Grace Norberg, for Ramah M. Harrison,  
for Property Owners on Birmingham  
Drive, interested party.
- C. L. Holman, for The Atchison,  
Topeka and Santa Fe Railway  
Company, interested party.
- William L. Oliver, for the Commission's  
staff.

O P I N I O N

Applicant, the County of San Diego, seeks authority to extend Birmingham and Liverpool Drives in the community of Cardiff-by-the-Sea westerly across the track of The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) to connect with

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U. S. Highway 101. Applicant proposes to construct viaducts over the Santa Fe's track at the respective crossings in order that the crossings may be made at separated grades. It recommends that upon completion of said crossings a highway grade crossing of the Santa Fe's tracks at Chesterfield Avenue, about 1,200 feet and 600 feet southerly of Birmingham and Liverpool Drives, respectively, be abandoned.<sup>1</sup>

Public hearing on the application was held before Examiner C. S. Abernathy at Cardiff-by-the-Sea on August 7, 1968, and the matter was taken under submission for decision.

As disclosed by the record in this matter, the background of this proceeding is as follows:

The proposed extensions of Birmingham and Liverpool Drives are one of several actions which the County has taken or instigated in recent years to provide better access across the track of the Santa Fe in the general area that collectively is comprised of the communities of Leucadia, Encinitas, and Cardiff-by-the-Sea. Grade separation structures have been already constructed at La Costa Road, Leucadia, and at Encinitas Boulevard, Encinitas. In October, 1965, the County obtained a priority rating for a grade separation at Manchester Avenue, which runs along the southerly boundary of Cardiff. However, subsequent developments pertaining to the funding of the improvements to be made of Manchester Avenue and of the adjacent San Elijo Lagoon prompted the County to defer action on a grade separation at Manchester.

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<sup>1</sup> A diagram depicting various features of the Cardiff area which are referred to herein is attached hereto as Appendix A.

In the meantime the Commission instituted an investigation, Case No. 8326, into the safety of grade crossings over the Santa Fe's track at Fulvia Street, Leucadia, and at Montgomery Avenue and at Chesterfield Drive in Cardiff. As a consequence of this investigation the Commission ordered the improvement of the crossings at Fulvia Street and Chesterfield Drive and the closure of the crossing at Montgomery Avenue (Decision No. 71344, dated October 4, 1966). The closure of the Montgomery crossing was to be effected upon completion of the improvement of the crossing at Chesterfield Drive. Subsequently, the County was granted an extension of time to October 4, 1968, to effect the ordered improvements of the crossing at Chesterfield Drive. The extension was granted on allegations that the County was planning a grade separation at a nearby location which would permit the closing of the grade crossing at Chesterfield Drive, thereby making the improvements of said crossing temporary in nature (Decision No. 72180, dated March 21, 1967). Concurrently with the granting of this extension in time, the Commission ordered (with the assent of the County and of the Santa Fe) the closure of the crossing at Montgomery Avenue by October 24, 1967, and said crossing was consequently closed.

In Case No. 8664 the County sought and obtained a listing of the Chesterfield Drive grade crossing on the 1968 annual priority list of railroad grade crossings of city streets or county roads most urgently in need of separation and of existing grade separations in need of alteration or reconstruction

(Decision No. 73511, dated December 19, 1967). The grade separations which were then proposed by the County as alternatives to the crossing at Chesterfield Drive were the Birmingham Drive and Liverpool Drive separations which are the subject of this application.

As general basis for the proposed crossings, applicant alleges that northern San Diego County is experiencing an unprecedented population boom; that an efficient system of east-west arterial highways will be required to meet the needs of the increasing population for access to the coastal communities, and that Birmingham and Liverpool Drives have been designated for development as part of said arterial system.

According to testimony of the County Engineer for San Diego County, who presented and explained the proposals on applicant's behalf, the determination to extend Birmingham and Liverpool Drives across the track of the Santa Fe was arrived at after an intensive study by the County's Engineering Department of various means by which the anticipated traffic needs of the Cardiff area might be met. Some of the principal considerations which were taken into account in this study were as follows:

1. The Cardiff area between the Santa Fe's track and Interstate Highway 5 lies on a hillside which rises to the east. The streets in the area follow a rectilinear pattern. None of the east-west streets are of high standard, particularly with respect to width and grade.
2. Traffic volume along Birmingham Drive between Highway 101 and Interstate Highway 5 is expected eventually to approximate 17,000 vehicles daily. Four traffic lanes will be required to accommodate this volume of traffic.

3. The present width of Birmingham Drive is only sufficient to accommodate two lanes of traffic. To move the expected volume of traffic via Birmingham would require: a widening of the roadway to provide four traffic lanes plus a storage lane for left turn traffic; the removal of a tier of houses in the residential area along Birmingham; and the construction of a 5-lane (four lanes plus a left turn storage lane) viaduct across the Santa Fe's track.
4. The needed four-lane traffic carrying capacity can also be attained by: the conversion of Birmingham Drive into a one-way street westerly from MacKinnon Avenue; the conversion of Liverpool Drive (also two lanes wide) into a one-way street easterly to MacKinnon Avenue; the conversion of MacKinnon Avenue into a one-way street northerly from Liverpool Drive to Birmingham Drive; the construction of two two-lane viaducts -- one at Birmingham, the other at Liverpool -- over the Santa Fe's track.
5. The construction of the necessary viaduct or viaducts in either case would require approximately an eleven-foot lowering of the Santa Fe's track, in order to produce required clearances.<sup>3</sup> Also, in the event of construction of a viaduct at Liverpool Drive, a raising of a section of Highway 101 by approximately 18 feet would be required.
6. Estimated costs of the right-of-way acquisition and construction in the event of widening of Birmingham and the construction of a five-lane viaduct are \$690,000. Corresponding costs in the event of conversion of Birmingham and Liverpool Drives into one-way streets and the construction of the two two-lane viaducts are \$502,000.

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<sup>3</sup> Viaducts which would not require lowering of the Santa Fe's track were not considered feasible. In order to produce required clearances over the Santa Fe's track, the approaches to such viaducts would have to be such that they would unduly encroach upon the streets to the east and would require substantial changes in Highway 101 to the west.

7. The construction of a five-lane viaduct at Birmingham or of two-lane viaducts at Birmingham and at Liverpool would necessitate the closure of the grade crossing at Chesterfield Drive because of the lowering of the Santa Fe's track which the construction would entail. During the construction period a temporary grade crossing of the Santa Fe's track would be established about 200 feet south of the present Chesterfield crossing.
8. Chesterfield Drive does not cross nor interchange with Interstate Highway 5. The construction of a grade separation at Chesterfield Drive, as an alternative to one at Birmingham Drive (or at Birmingham Drive in conjunction with one at Liverpool Drive), would not provide the potential for meeting the traffic needs of the Cardiff area that would be provided through a development involving Birmingham Drive.

Upon the basis of the foregoing and other considerations, the County's Engineering Department concluded that the development of Birmingham and Liverpool Drives as one-way streets together with the extension of said drives over the Santa Fe's track by means of two-lane viaducts provides the best means of meeting the traffic needs of the area. Available streets would be used without widening; no destruction or removal of homes would result; expensive right-of-way acquisition would be held to a minimum; and adequate traffic capacity would be attained.

The adoption of the County Engineer's proposals was supported by some citizens of Cardiff and opposed by others. It was opposed by the Cardiff Chamber of Commerce. The preponderance of opinion of those who appeared, or were represented by those who appeared, and presented their views was, by far, in opposition to the proposals.

Generally speaking, the proposals were opposed because:

1. They would result in the conversion of Birmingham Drive, Liverpool Drive and MacKinnon Avenue into one-way streets.
2. They would channel a large volume of traffic into Liverpool Drive and MacKinnon Avenue, both of which are assertedly residential streets and neither adequate nor suited for such traffic volume.
3. They presumed the closure of the grade crossing at Chesterfield Drive.

Conversion of Birmingham Drive, Liverpool Drive  
and MacKinnon Avenue into one-way streets

Two witnesses testified in opposition to the proposed system of one-way streets. One witness, a professional fireman (city fire department), presented the results of two polls which he and others had taken to ascertain the position of residents in the Cardiff area regarding this proposal. One of the polls was taken to ascertain sentiment favoring a single viaduct over the Santa Fe's track at Birmingham Drive and the development of Birmingham as necessary to carry future traffic. The witness reported that more than 500 persons had indicated a preference for this plan over that proposed by applicant. The other poll was taken as an impartial survey to determine the relative sentiment for (a) the development of Birmingham and the construction of a single viaduct, (b) the development of the one-way street system as proposed, including the construction of two viaducts, and (c) either plan. The witness reported that opinions were obtained from almost 750 persons, and that those who preferred the development of Birmingham Drive exceeded those who favored the proposed plan by a ratio of about twelve to one.

In addition to reporting poll results as above, the fireman otherwise expressed opposition to the one-way street proposals. He testified that experience under a system of one-way streets demonstrates that the system is confusing, is detrimental to business, is not conducive to the efficient operation of emergency fire apparatus, and that it results in an increase in traffic accidents. He pointed out that in the neighboring community of Encinitas one-way streets are being converted to two-way streets because of such difficulties encountered in the one-way operations. He also cited similar action which was taken for like reasons in the City of San Fernando.

The other witness who testified in opposition to the one-way streets is a realtor and a professional appraiser who stated that he had been instrumental in many of the developments which have occurred in the Cardiff area during the past twenty years. He said that one-way streets are detrimental to property values, and that, moreover, they create particular hazards because traffic flow in the left-hand traffic lanes is contrary to that encountered in general experience.

Liverpool Drive and MacKinnon Avenue not adequate  
for, nor suited to, the traffic involved

Part of the testimony which the fireman witness presented in opposition to the proposed one-way streets was directed to the point that Liverpool Drive and MacKinnon Avenue are not adequate for, nor suited to, the volume of traffic that would be channeled therein. He stated that the roadway along Liverpool Drive is but



30 feet wide; that MacKinnon Avenue is only 36 feet wide; that there are no curbs nor sidewalks along either of these streets; that access to garages of the residences along Liverpool and MacKinnon requires the backing of cars into the streets; that there are blind intersections on both streets; that MacKinnon is not paved; and that the grade of ascent or descent on Liverpool Drive is as much as 20 percent, or more than three times the maximum recommended in the latest Handbook of Traffic Engineers for arterial streets, and more than twice the maximum grade on Birmingham Drive.<sup>4</sup>

Closure of Grade Crossing at Chesterfield Drive

The closure of the grade crossing at Chesterfield Drive which applicant presumes would follow from opening of the proposed viaducts at Birmingham and Liverpool Drives was opposed by the Cardiff Chamber of Commerce, by the owner of a shopping center in the immediate vicinity of Chesterfield Drive and by the realtor previously mentioned herein.

The president of the Chamber of Commerce testified that at a special meeting of the Chamber on August 5, 1968, it was unanimously resolved by the membership and by residents of Birmingham and Liverpool Drives who attended the meeting that the plan for overhead crossings of the Santa Fe's track at Birmingham and Liverpool Drives be opposed, and that the County should be

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<sup>4</sup> In his previous testimony the County Engineer had described the grades on both Birmingham and Liverpool Drives as excessive. He said, moreover, that Liverpool is completely abutted by existing improvements which make any significant change in location or grade line infeasible.

instructed to comply with the directives in the Commission's Decision No. 71344 concerning the improving of the Chesterfield crossing. The Chamber's main concern, the witness said, was not directed against the proposed crossings at Birmingham and Liverpool Drives per se, but against a substitution of said crossings for the crossing at Chesterfield. As explained by the witness, the Chamber's basic position is that Cardiff needs two avenues of entrance and egress over the Santa Fe's track -- one to the north, the other to the south -- and that until a more suitable crossing can be constructed to the south, the crossing at Chesterfield Drive should be retained. The Chamber's president said, furthermore, that this viewpoint is reflected in letters which the Chamber has received from the local fire department, sheriffs' department and ambulance services, and that a petition to this effect was signed by more than 3,000 Cardiff residents following the closing of the grade crossing at Montgomery Avenue.

Substantially similar views to those of the Chamber of Commerce were expressed by the shopping center owner and by the realtor. The former also asserted that closure of the Chesterfield crossing without the opening of a crossing to the south would be prejudicial to those who have invested in businesses to the south of Cardiff. The realtor stated that he had conducted a poll on the question of a closure of the Chesterfield crossing, and that virtually all with whom he had discussed the matter opposed the closure.

Citizens of Cardiff who presented testimony in support of applicant's proposals included an owner of property on Birmingham Drive and an owner of property in the Cardiff area east of Interstate Highway 5. The former, who assertedly represented other property owners on Birmingham also, favored the proposals because they would not require a widening of Birmingham, and also because of the improved access to U.S. Highway 101 which they would provide. The other witness urged the adoption of the proposals because, he asserted, they would do the maximum good for the community at a minimum cost.

By way of argument in reply to the opposition to the proposals, the County Engineer asserted that the matter of traffic operation on the streets of Cardiff is completely separate and apart from the question of whether the proposed viaducts over the Santa Fe's track should be authorized. He said that before one-way streets could be established in Cardiff, the matter would have to come before the San Diego County Board of Supervisors and be acted upon by the Board after public hearings. He said, furthermore, that at present the need for one-way streets in Cardiff is not urgent, that in the meantime, if the proposed viaducts over the Santa Fe's track are authorized by the Commission, the construction work can proceed, and the determination as to whether one-way streets in Cardiff should be ordered can be made at a later date.

At the close of the hearing in this matter applicant redefined its requests. It asked for authorization to proceed with the construction of the proposed viaducts at Birmingham and Liverpool Drives. As to the closure of the grade crossing at Chesterfield Drive, it stated that it would make a further application at a later time for authority to effect said closure.

A representative of the Santa Fe stated that his company has no objection to construction of the two two-lane viaducts which applicant proposes, but that its agreement in this respect was based on a supposition that upon the construction of said viaducts the grade crossing at Chesterfield Drive would be closed.

An engineer of the Commission's staff stated that it is the staff's position that the opening of the proposed crossings would eliminate the need for the crossing at Chesterfield Avenue, and that the crossing should therefore be closed in the interests of public safety.

#### Discussion

Applicant's proposals in this matter are a part of an overall plan involving in total:

1. The construction of the crossings at Birmingham and Liverpool Drives over the Santa Fe's track;
2. The realignment of the flow of traffic within a portion of the Cardiff area west of Interstate Highway 5;
3. Closure of the present grade crossing at Chesterfield Drive, and
4. An enlargement of present interchange facilities of Birmingham Drive with Interstate Highway 5.

As previously indicated above, this plan was arrived at after a study by San Diego County's Engineering Department of various means by which anticipated traffic needs of the Cardiff area might be met. The record shows that the proposed crossings and the closure of the Chesterfield Drive crossing have been considered and approved by the Board of Supervisors of San Diego County, but that the other aspects of the plan have not been considered and acted on by the Board.

Applicant's showing relative to the volume of present and expected traffic along Birmingham Drive is convincing that a crossing (or crossings) of the Santa Fe's track at or in the vicinity of said drive should be established to accommodate said traffic, and that the crossing (or crossings) should be at separate grades in order to meet the needs of public safety.

Regarding where and how the crossings should be effected, the record shows that (a) either the two-lane viaducts which applicant proposed be established at Birmingham and Liverpool Drives, respectively, or (b) the single five-lane viaduct at Birmingham Drive which was urged by the Cardiff citizens would meet the needs of public safety which have been demonstrated for crossings or a crossing of <sup>5</sup> the Santa Fe's track at or in the vicinity of Birmingham Drive. Whether the two two-lane structures or the single five-lane structure should be built should be decided in relation to the traffic pattern that is to be ultimately adopted for the Cardiff area. Public convenience and necessity would be best served by correlation of the traffic pattern with the type and location of said crossing structures

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This reference (and subsequent references hereinafter) to a five-lane viaduct at Birmingham Drive is to a structure which involves the lowering of the grade of the Santa Fe's track in connection with the building of said structure.

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or structure. Meanwhile, the building of either structures at their respective locations should be authorized in order that other determinations necessary to the progressing of the work involved can be made without delay.

The authority which is hereinafter granted will not extend to a closure of the present grade crossing at Chesterfield Drive (including a closure incidental to regrading of the Santa Fe's track) inasmuch as applicant has stated that it would seek authority to make said closure by a separate application.

Findings

On the basis of the record in this matter the Commission finds that:

1. Public safety requires the establishment of a vehicular crossing (or crossings), at separated grades, of the Santa Fe's track at or in the vicinity of Birmingham Drive in the community of Cardiff-by-the-Sea.<sup>7</sup>

2. The requirements of public safety would be met either by (a) the construction of a two-lane vehicular viaduct over the Santa Fe's track at Birmingham Drive and a two-lane vehicular viaduct over

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Although, as the County Engineer asserted, the operation of traffic on the streets of Cardiff is not within the province of the Commission, the pattern of the traffic is a matter of concern to the Commission to the extent that it bears on whether the type and location of a proposed crossing meets the needs of public convenience and necessity. Section 1202 of the Public Utilities Code vests the Commission with "exclusive power...to determine and prescribe the manner, including the particular point of crossing."

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The term "vehicular crossing" as used herein and in the Order which follows shall be deemed to include a pedestrian walkway or walkways.

the Santa Fe's track at Liverpool Drive, or (b) the construction of a five-lane vehicular viaduct over the Santa Fe's track at Birmingham Drive.

3. Public convenience and necessity require a correlation of the type and location of said viaducts or viaduct with the traffic pattern to be adopted for the streets of Cardiff-by-the-Sea.

4. Applicant's requests in this matter do not include a request for authority to effect a closure of the present grade crossing of the Santa Fe's track at Chesterfield Drive in Cardiff-by-the Sea.

#### Conclusions

Applicant should be authorized to construct either (a) a two-lane vehicular viaduct over the Santa Fe's track at Birmingham Drive and a two-lane vehicular viaduct over the Santa Fe's track at Liverpool Drive in Cardiff-by-the-Sea or (b) a five-lane vehicular viaduct over the Santa Fe's track at Birmingham Drive, according to the needs of the traffic pattern to be adopted for Cardiff.

#### O R D E R

IT IS ORDERED that:

1. Subject to the note hereinbelow, the County of San Diego is authorized to construct either:

- a. A two-lane vehicular viaduct over the Santa Fe's track at Birmingham Drive and a two-lane vehicular viaduct over the Santa Fe's track at Liverpool Drive in the community of Cardiff-by-the-Sea, or
- b. A five-lane vehicular viaduct over the Santa Fe's track at Birmingham Drive in the community of Cardiff-by-the-Sea

according to the needs of the traffic pattern to be adopted for Cardiff-by-the-Sea.

NOTE: The authority herein granted may not be exercised as a basis for any closure of the grade crossing of the Santa Fe's track at Chesterfield Drive in Cardiff-by-the Sea.

2. The authority herein granted shall expire two years after the effective date hereof.

The effective date of this decision shall be ten days after the date hereof.

Dated at San Francisco, California, this 26<sup>th</sup> day of SEPTEMBER, 1968.

William S. ...  
President

Augustine ...

Commissioners

Commissioner William M. Bennett  
Present but not participating.

Commissioner Fred P. Morrissey  
Present but not participating.



# APPENDIX A

