

Neutral Citation Number: [2026] ECC Lin 1

IN THE CONSISTORY COURT AT LINCOLN

In the matter of the exhumation of the remains of Michael Anthony Button deceased

And in the matter of St Peter's Churchyard, Aubourn

Judgment

1. The Petitioner, who is the widow of the deceased Michael Anthony Button, seeks a Faculty for the exhumation and reinterment elsewhere in the churchyard of the ashes of Mr Button. The cremated remains were interred in September 2023. The problem that has arisen is that the area where cremated remains are interred has become heavily waterlogged over a lengthy period making it difficult to attend this grave. The Petitioner states that it is distressing when she goes to the grave because of the waterlogged ground. I have given judgement for a Faculty in another exhumation application in the same cremated remains area for the same reason (Re Mostyn Purnell Cooper and St Peter's Auborn: Judgment 6/4/24). I was told in that application that the area is slippery and dangerous underfoot. Efforts have been made to improve the situation with limiting access and putting bark chippings down, but this has not helped.
2. The proposal is that the interred remains which are in a cardboard container will be exhumed and reinterred in a new cremated remains plot in the churchyard at a higher elevation. It is near the footpath which will also make it easier to visit the graves. The undertaker also states that removal of the ashes is possible.
3. The Rural Dean and the lay vice chair of the PCC are in agreement with the application. There are no churchwardens at St Peter's.
4. I granted a Faculty in August 2025 for the new cremated remains area.

Discussion

5. The principles by which an exhumation from consecrated ground is permitted are well known and set out in the case of In Re Blagdon Cemetery 2002 Fam p299.
6. The presumption is that burial of human remains in consecrated ground is permanent. This presumption arises from the Christian theology of burial which was set out at para 23 of the judgement in Blagdon in the quotation from The Bishop of Stafford's paper on the "Theology of Burial". He wrote:

"The funeral itself articulates very clearly that its purpose is to remember before God the departed; to give thanks for their life; to commend them to God the merciful redeemer and judge; to commit their body to burial/cremation and finally to comfort one another."

He went on to explain:

“The permanent burial of the physical body/the burial of the cremated remains should be seen as a symbol of our entrusting the person to God for resurrection. We are commending the person to God, saying farewell to them (for their ‘journey’), entrusting them in peace for their ultimate destination, with us, to the heavenly Jerusalem. The commending, entrusting, resting in peace does not sit easily with ‘portable remains’ which suggests the opposite: reclaiming, possession, and restlessness; a holding onto the ‘symbol’ of human life rather than a giving back to God”.

7. The principle of permanence can only be departed from if there are special circumstances which justify an exception to the principle that Mr Button was laid to rest in 2023 and his remains should not now be disturbed.
8. The Court of the Arches in Blagdon identified various factors which may support a submission that special circumstances have arisen which permit the remains to be exhumed. These factors include (i) medical reasons, (ii) mistake, (iii) reinterment in a family grave.
9. This is a case in which it was plainly a mistake to have cremated remains interred in a place that was to become so waterlogged so soon after the interment when immediate family members are likely to want to visit, and who are now prevented from visiting. I am sure that it is the intention of Mr Button’s immediate family, including his widow, that they would wish to be interred in proximity to the new proposed location where Mr Button’s ashes are interred. In those circumstances the principles surrounding family graves expressing family unity adds weight to this application.
10. It is always exceptional to grant an exhumation, however I am satisfied that exceptional reasons do exist in this case for an exhumation to be permitted.
11. The exhumation must be carried out discreetly with appropriate screening so as not to alarm those visiting the churchyard and at a time when there will be minimal risk of visitors being aware of the exhumation. Notice must be given to the environmental health department of the relevant District Council. The reinterment should take place on the same day.
12. The new grave will require a new flat memorial set flush with the ground to the prescribed dimensions in conformity with the Churchyard Regulations. All new interments in the new cremated remains area will have the same style of memorial. This is so that the churchyard can be easily maintained and also contributes to a sense of harmony in the churchyard. I note that the Petitioner’s expectation from her application is that the existing memorial will simply be lifted and reinstalled in the new position. If it is not flat and is not flush with the ground and to the same size as other memorials in that cremated remains area, then I am minded to direct that it will have to be replaced by a new memorial.

13. I recognise that I have not seen a photograph of the existing memorial, and Mrs Button has not addressed me on this issue. It may be that once she has spoken to the Rural Dean or the Vice-Chair of the PCC about this, she will be content with a new stone. However, if having spoken to the Rural Dean or the Vice Chair, Mrs Button remains concerned about this I will of course hear any further representation she may want to make to me about this. I would also in those circumstances be assisted by having the views of the Rural Dean and some more photographs of the new cremated remains area. I will then rule on that issue definitively.
14. However, subject to that the Faculty for the exhumation and reinterment is granted.
15. I waive my fee.

The Revd H H Judge Mark Bishop
Chancellor
15th January 2026