

Neutral Citation Number: [2026] ECC Lin 2

IN THE CONSISTORY COURT AT LINCOLN

In the matter of the Churchyard at St Mary, Tetford and Salmonby

And the Petition for the exhumation of the mortal remains of Barbara Eugene Myers

Judgment

1. By a Petition dated 6th May 2026 Ms Seidel-Smith seeks a Faculty to exhume the mortal remains of her late mother Barbara Eugene Myers who died on 6th January 2024, from the churchyard of St Mary's, Tetford. She seeks to reinter those remains in the plot where Mrs Myers' late husband was interred at the end of the same row in the churchyard.
2. Mrs Myers was buried on 6th February 2024.
3. What has happened here is an object lesson for all parishes that churchyard plans must be up to date and readily understandable by everyone, and copies available. It appears that the churchwarden who usually directs the gravedigger where to dig was away when this interment was to take place. Although the other churchwarden had the churchyard plan, neither she nor the gravedigger could understand it. It was known that Mrs Myers should be interred at the end of one of the rows where her husband was buried (it was known that Mr Myers was interred on the end of a particular row) but they were not able to work out which end of the row Mr Myers had been buried. This was because the churchyard plan had not marked by name the interment of Mr Myers, nor had the name of the person interred at the other end of the road been recorded on the plan (the person interred there was Mr Freiston). This was particularly important because no memorials had been erected on either grave.
4. I am informed that the gravedigger rang the family who attended but there was a lack of clarity as to which end of the row Mr Myers had been interred. Eventually it was agreed (wrongly) that Mr Myers had been interred where Mr Freiston had been interred. Therefore, this grave was reopened to permit the body of Mrs Myers to be interred therein.

5. This error has come to light because the widow of Mr Freiston has now died, and their family now wish to inter the cremated remains of Mrs Freiston with her late husband. It then came to light that the body of Mrs Myers had been wrongly interred with that of Mr Freiston.
6. The application is for a Faculty to put right this mistake by exhuming the mortal remains of Mrs Myers and reintering them in the grave where Mr Myers is currently buried at the other end of the row.
7. I note that Revd Canon Fran Jeffries, Rural Dean, is in support for pastoral reasons. The undertakers confirm that an exhumation is still technically attainable.
8. Close family members of Mrs Myers all have given their consent to this exhumation.

Discussion

9. The principles by which an exhumation from consecrated ground is permitted are well known and are set out in the case of In Re Blagdon Cemetery 2002 Fam p299.
10. 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 judgment 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"

11. The principle of permanence can only be departed from if there are special circumstances which justify an exception to the principle that Mrs Myers was laid to rest in 2024 and her remains should not now be disturbed.
12. 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 are:

(i) medical reasons.

The Court made it clear that the only medical reasons which could assist a petitioner in these circumstances would be those which showed quite clearly that a serious psychiatric or psychological problem had arisen caused by the location of the grave to whom the petitioner had a special attachment. The Court made it clear mere decline in health and mobility due to advancing years could not be a reason which would displace the presumption of permanence. That is not asserted here.

(ii) lapse of time.

The Court held that the passage of a substantial period of time before an application for exhumation was made could not be determinative of the application in itself. However, it would be a factor in assessing the genuineness of the Petitioner's case. In this case the interment was about 2 ½ years ago and the mistake has come to light only because of the need to inter the cremated remains of Mrs Freiston.

(iii) mistake.

Where there has been a simple error in administration, such as burial in the wrong grave, the Court held that faculties for exhumations could readily be granted. This is what has happened here. Of more difficulty is where there is a failure to understand or appreciate the significance of burial in consecrated ground in a municipal cemetery, but I do not need to consider that issue in this judgment.

(iv) precedent.

The Court held that consideration of the effect of precedent by the grant of the application is properly made because of the desirability of securing equality of treatment, so far as circumstances permit between Petitioners. I take this issue into account.

(v) family grave

The Court held that the use of family graves are to be encouraged because they both express family unity and they are environmentally friendly in demonstrating an economical use of the land for burials. I note that the mortal remains of Mrs Myers are to be reinterred in the grave of her late husband.

Decision.

13. The error in choosing the grave in which to place the body of Mrs Myers should not have occurred. A PCC and churchwardens must have an up to date churchyard plan that is readily accessible and understandable by anyone who has to consult it. This is important information which needs to be capable of easy access with confidence that the information contained in it is correct and fully explained. It should not depend on the availability of particular personnel to be on hand to explain it. It has been a condition of Faculties for grave reservations in this diocese for many years that up to date copies of churchyard plans should be available and on view in the sacristy/vestry. I am pleased to note that a new churchyard plan has now been drawn up which I have seen. This should now be on public view in the sacristy/vestry to assist gravediggers/churchwardens/visiting clergy, to avoid the error that occurred in this case.
14. The lapse of time since the interment has been explained and I accept the genuineness of the mistake, and that this mistake has only recently come to light.
15. 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 because a mistake was made in 2024. The re-interment in the grave where Mr Myers is buried will also be an expression of family unity.

16. 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 and reinterment. Notice must be given to the environmental health department of the relevant District Council. The reinterment should take place in the same day. The Faculty Fee, and the costs of the exhumation and reinterment must be paid by the PCC.
17. In the circumstances I waive my fee.

The Revd. HH Judge Mark Bishop

Chancellor of the Diocese

1st August 2026