

Neutral Citation Number: [2026] ECC SEI 1

IN THE CONSISTORY COURT OF THE DIOCESE OF ST EDMUNDSBURY AND
IPSWICH

In re St Michael's, Brantham and in re the late Dennis John Dunthorne and the late
Pamela Dunthorne

JUDGMENT

1. This is a petition by Christine Danes (CD) and her brother Leslie Dunthorne to exhume the cremated remains of their father, Dennis John Dunthorne (DD) who died and was interred in 2007 so that they can be scattered with the cremated remains of their mother, his widow, Pamela who died in June 2025.
2. The precise details of DD's interment are not clear. A hand written note with his details states that he died on the 15th January 2007 and was interred '30th Jan-2nd Feb or 5th Feb – 9th Feb'. It is of note that DD was interred in a wooden box. Why the date of interment is so uncertain is never spelled out anywhere on the papers.
3. I have been invited to deal with this petition on the papers submitted to me rather than by way of a hearing.
4. The application is made in the form of an email dated 20 July 2025 from CD which reads;

I would like to ask if its possible to remove dads ashes from St Michaels church Brantham, my mum has always regretted having his ashes put there as dad passed away so suddenly and unexpected (he had a heart attack while out with great grandchildren) and mum made the decision very quickly without thinking, even the day after it was done mum was upset with what she had decided, over the years mum spoke about it all the time and kept saying how she regretted doing it and it wasn't dads wishes, and that he wanted his ashes scattered somewhere that was special to them both.

Mum has just passed away (18th June 2025) and my brother and I thought we would try and sort it our as mums final wish.

5. Two emails from her fellow petitioner and their brother both dated 24 September 2025 'give permission' for the exhumation of their father. The emails do not mention what they wish to happen to them after that, but I am prepared to accept that they too want the ashes to be scattered with their mother's ashes.
6. The incumbent and the Church wardens have no objections to the exhumation, but the incumbent raises the issue that the cremated remains may well have become integrated into the soil after this length of time. The proposed solution made by the incumbent is that the surrounding soil should also be removed to ensure that all the ashes are exhumed.
7. I caused enquiries to be made as to why, if the interment of her late husband's ashes had caused her so much distress from the outset, a petition was not made earlier by the Petitioners. I also wished to know where it was proposed that the ashes were to be scattered.

8. I was informed that:

Mum has always regretted dad being at church as she knew that he wanted his ashes scattered on river Orwell but because he went so suddenly, she just couldn't think straight. She kept mentioning over the years that she wasn't happy about dad but didn't realise she could do anything about it, we started enquiring over 10 or so years ago but then mum was diagnosed with stage 4 kidney failure then dementia and looking after mum came first, it was only when mum passed that my brother and I spoke about seeing if we could make her and dad's wishes come true

I am also informed by the Registry;

They are fully aware of the likelihood that there may not be any recoverable ashes when the grave is opened, but as their mum was so upset about her husband being in the churchyard, the family feel they must at least try to fulfil her last wish.

The Law

9. The first hurdle for the petitioners is to persuade me that the remains should be exhumed at all. Exhumation has been considered in many cases over the years. The leading case remains *Re Blagdon Cemetery* [2002] Fam 299 (Court of Arches). Where the theology of burial was considered, the Court quoted the expert opinion of the then Bishop of Guildford:

'The permanent burial of the physical body/the burial of 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, the heavenly Jerusalem. This commending, entrusting, resting in peace does not sit easily with "portable remains", which suggests the opposite: reclaiming, possession, and

restlessness; a holding on to the 'symbol' of a human life rather than a giving back to God'

10. In the light of that the Court of Arches concluded there is;

the straightforward principle that a faculty for exhumation will only be exceptionally granted. Exceptional means 'forming an exception' and guidelines can assist in identifying various categories of exception. Whether the facts in a particular case warrant a finding that the case is to be treated as an exception is for the Chancellor to determine on the balance of probabilities

The guidelines given in the decision are;

- a. Medical reasons,
- b. Lapse of time,
- c. Mistake,
- d. Local support,
- e. Precedent
- f. Family grave

I do not consider that these are set in stone, and I am entitled to use my discretion in considering other relevant matters whether raised by the petitioners or not.

11. The authorities concerning exhumation cannot be read in a vacuum however. Even were I to allow the exhumation of DD's remains, they would have to be dealt with in a proper manner. Unlike many other cases that come before Consistory Courts this application is not for the re-interment in either consecrated or even unconsecrated ground, but in the river Orwell.

12. Canon 38 is clear. It states;

3. *Cremation of a dead body is lawful in connection with Christian burial.*
4. (a) *When a body is to be cremated, the burial service may precede, accompany, or follow the cremation; and may be held either in the church or at the crematorium.*
- (b) *The ashes of a cremated body should be reverently disposed of by a minister in a churchyard or other burial ground in accordance with section 3 of the Church of England (Miscellaneous Provisions) Measure 1992 or on an area of land designated by the bishop for the purpose of this sub-paragraph or at sea.*

This was considered by the Convocation of York in 1951 which stated;

.. the ashes of a cremated body should be disposed of in consecrated or dedicated ground. This may be done (a) by burial; (b) by strewing them reverently on the surface of the ground and covering them lightly with earth; (c) by enclosing them, after obtaining the necessary faculty, in a part of the church or other consecrated building set apart for the purpose. To scatter ashes broadcast on either consecrated or unconsecrated ground without covering them is a method which may be unseemly or irreverent and cannot be recommended.

The Legal Advisory Committee is firmer. It states:

It is unlawful for an Anglican minister to scatter (as opposed to strewing) cremated remains as to do so is irreverent.

I bear in mind that no Anglican minister will be involved in the proposed scattering and that this will be a deliberate removal from consecrated ground not just to an unconsecrated area, but to a running river.

Discussion

13. If I consider the issue of exhumation first, in line with the guidelines;

a. Medical reason.

There are no medical reasons preyed in aid by the petitioners

b. Lapse of time

DD's interment was almost exactly 19 years ago. I note that the petitioners claim that their mother spoke about this regularly, but enquiries were only made 'about 10 years ago' to exhume his remains, that is approximately nine years after DD was interred. I have seen no evidence of what enquiries were made, to whom and what those enquiries revealed. I appreciate that little physically could be done until Mrs Dunthorne's death, but I am satisfied that matters could have been pursued in anticipation of that event with the incumbent, the registry or with lawyers.

c. Mistake

The fact that Mrs Dunthorne apparently regretted the decision to inter DD's remains in the Church yard could be regarded in some senses as 'a mistake', but the Court of Arches guidance in *Blagdon* is clear what they mean by 'mistake';

We agree with the Chancery Court of York that a mistake as to the location of a grave can be a ground upon which a faculty for exhumation may be granted. We also agree that a change of mind as to the place of burial on the part of relatives or others responsible in the first place for the interment should not be treated as an acceptable ground for authorising exhumation.

d. Local support

It is clear that the incumbent and PCC are not opposed to the exhumation,

e. Precedent

In this case I am concerned that allowing an exhumation after a change of mind by petitioners could set a regrettable precedent.

f. Family grave

On an initial reading of the petition this seemed like a possible reason to allow this petition. I was told that it was the intention of the petitioners to scatter both parents' ashes. I had assumed that this would, effectively, create a family grave. The details supplied make it clear however that the ashes are to be scattered into a river.

14. I also take into account the concerns that the ashes themselves may have integrated into the earth. The idea that soil from the surrounding area should be removed so that the integrated ashes are or may be removed to be scattered seems to me to be both unseemly and irreverent and makes no spiritual or scientific sense.

Conclusion

15. I am not satisfied that there is sufficient justification to allow me to grant this petition. I fully appreciate that this is not the outcome the petitioners were hoping for and they are to be commended for seeking to carry out what they interpreted as their parents' wishes. It is plain that their love for their parents has motivated this petition.

19th February 2026

Justin Gau
Chancellor