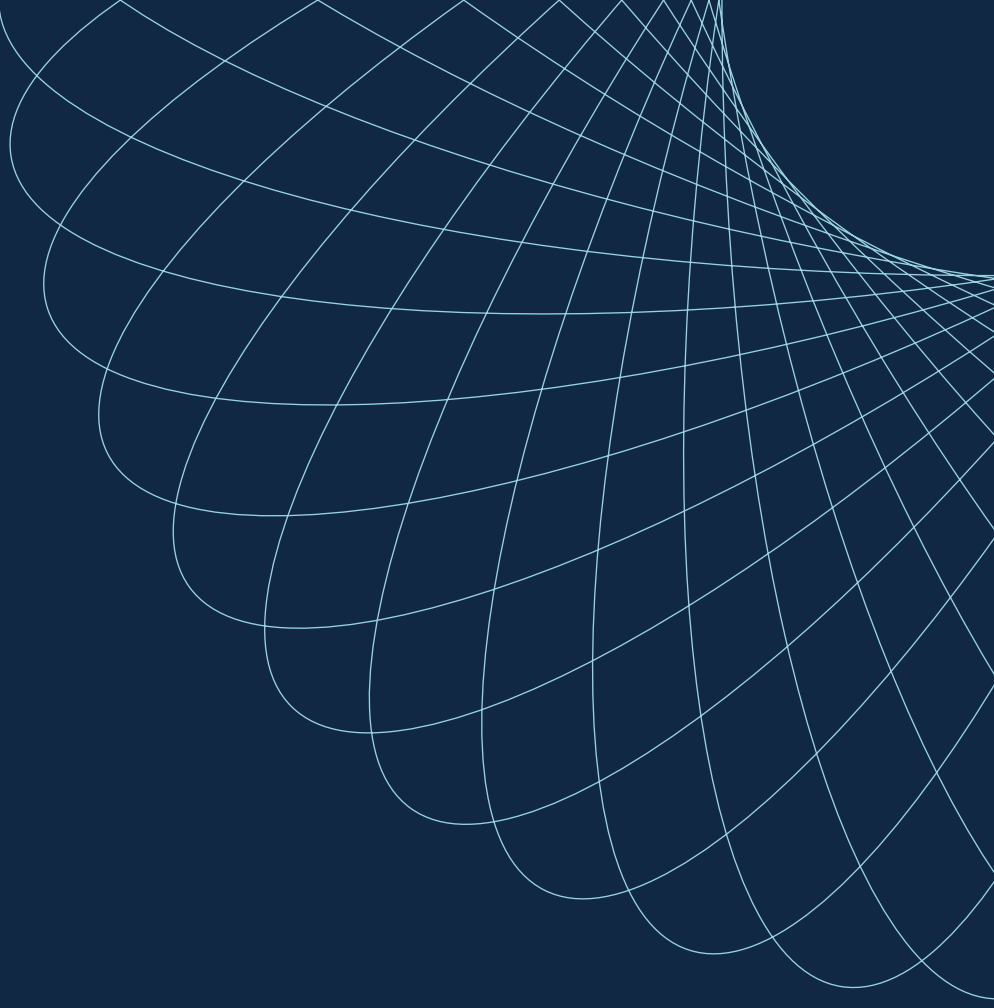

Building and investing in new data centres

Developing legal trends | November 2025

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The data centre sector is experiencing rapid growth, augmented by burgeoning demand from generative AI and other areas of the digital economy.

In September 2025, the UK Government announced significant inward investment by US companies, including billions of pounds in commitments to expand domestic data centre capacity. Across Europe, the industry is projected to receive €100bn in investment by 2030. Globally, it has been predicted nearly $7tn in capital outlays is needed by such time[2].

In this article, we consider key trends emerging from both an investor and a public policy perspective.

Introduction: investing in data centres

Data centres are physical warehousing facilities that house computing hardware, including servers, storage resources and digital network infrastructure. They cover numerous functions and come in different sizes, varying from storing and processing data to developing AI, including "enterprise data centres" (for an organisation's own internal use), "colocation data centres" (operated by a third party leasing space to customers), "co-hosting/managed services" (which also provide the infrastructure and equipment for customers), "hyperscale data centres" (typically built for major cloud providers) and "edge data centres" (smaller units, if needed close to end user activities).

Identifying suitable locations for data centres requires considering customer needs such as proximity, latency and scale. No less integral is availability of a continuous power supply and expansive, high-speed internet connectivity.

Land intensity of data centres (up to 1000 acres for hyperscale projects) means that strategic site assembly may be required through acquisition of multiple land parcels, including via conditional purchase or option agreements and overage arrangements. Given uncertainty around planning, grid access, technological changes and regulatory outlook, an ability to adapt to changing circumstances is important.

> "The convergence of rising power requirements and data center growth is leading to a generational investment opportunity.
>
> JLL, 2025 Global Data Center Outlook

Trend 1: central vs local government

Planning challenges, "fast tracking" permits

An early obstacle for developers is navigating planning and permitting controls for building data centres. Planning authorities have shown reluctance to prioritise such facilities over alternative local needs (e.g. housing, employment, etc.) or on greenbelt land. This has posed constraints when considering planning controls are normally dealt with on a local/regional basis. The local decision-making model can be at odds with the need to have a co-ordinated approach so that data centres are purposefully located alongside other infrastructure. This locally-led approach is changing as national governments start adopting proposals for "fast tracking" planning consenting, recognising the wider strategic necessity for expanding domestic capacity.

This is why many governments are seeking to identify data centres as projects of national importance (as is the case in France via the Bill of Simplification of Economic Life, in the United States via the Executive Order relating to the Acceleration of Federal Permitting of Data Centre Infrastructure, and in the UK by virtue of the draft Regulations for Infrastructure Planning, so as to include data centres as nationally significant infrastructure projects). In ensuring new data centre growth is co-ordinated within central government, the aim is the approvals process speeds up and there is less scope for challenges by campaigners.

However, challenges remain, not least with respect to bio-diversity considerations. Planning for new developments must often incorporate environmental enhancements. This can be difficult for data centre projects, often built on large areas of undeveloped land, where such impacts may be notable, and for which there is limited scope for onsite improvements.

Matching grid connection and development

The use of conditional contracts and land options with deferred longstop dates and baked-in extension triggers can afford time for all necessary planning permissions and power infrastructure requirements to be secured prior to any commitment to the capital land cost.

Increasingly, for larger scale operators, a primary source of power supply is the national electricity transmission grid and so gaining timely access to an available connection is essential. Recent policy reforms, notably in the UK, include moves towards prioritising criteria such as the "strategic importance" of grid applicants, a category that should benefit data centres and their actual "readiness", rather than having to join a "first come, first served" queuing system.

The high energy demands of data centres can however put strain on national power network capacity. Building near to renewable generation (e.g. wind, solar and, potentially, nuclear technology, notably "small modular reactors"), from which data centres can source additional energy, may reduce demands on the electricity grid. The latter may be achieved via corporate power purchase agreements (PPAs) with such generators, which can involve obtaining power directly from a neighbouring energy project.

Trend 2: flexible procurement models

Complexity of data centre construction and fragmentation of contractor responsibilities

There are general industry standards for construction of data centres (e.g. BS EN 50600), but no "one-size-fits-all" contractual structure or other standard procurement model for designing and building such developments.

Due to the scale of data centre projects, developers are limited to a restricted pool of contractors, especially where a design and build (D&B) or an engineering, procurement and construction (EPC) approach is adopted. Under these, responsibility for the whole project is overseen by a single contractor. However, even larger contractors can struggle to resource such projects, due to, for example:

- the geographical clustering of data centres (e.g. in the UK most data centres are in or around London) which, given the labour-intensive nature of developments of this scale, mean that developers may compete for skilled workers and resources;
- the lengthy duration of the build programme for data centre construction; and
- the complexities involved in design and construction, especially the critical mechanical and electrical elements of the project, sustainability and security considerations, the requirement to take account of future maintenance and aftercare, and that multiple stakeholders (including the operator, funders and local authorities) may have competing priorities.

Some of these concerns can be mitigated by early contractor involvement, given that the need to ensure the design and performance criteria are set in good time is particularly critical in this sector to avoid material abortive costs.

Achieving a true single point of responsibility for the whole project is difficult. For example, a design and build contractor may be appointed with full responsibility for building out the shell and core, who then hands over to a separate contractor who would be responsible for the fit-out (this approach may be used where responsibility for the two phases is split between developer and operator). Meanwhile, a separate contractor may be engaged to carry out the power connection aspects of the scheme, and timing constraints and long lead-in times may mean the developer needs to purchase items of specialist equipment directly. This would result in fragmentation of responsibility and must be carefully managed.

Developers may therefore look to adopt procurement models which achieve a greater spread of responsibility and risk. Under a construction management procurement route, a main contractor would be engaged as a "construction manager", and the specialist contractors responsible for the various packages would be managed by the construction manager but engaged by the developer directly. This can yield programme advantages due to the ability to let packages progressively as design is developed but requires a proactive and experienced developer to maximise such opportunities.

Sequencing of construction programme

Another challenge for developers is ensuring that the programming of the project is harmonised. As outlined above, the process of securing and laying a connection route connecting the data centre to the source of power would typically be taken forward separately by an independent connection provider. Even where the developer has reserved sufficient electrical capacity for the site with a connection date that meets its requirements, issues may arise. Such date would usually be conditional not just on the independent connection provider's works (which require agreements to be entered into with any third party owners of the land through which the route will pass) but also on works carried out either by the grid or the operator of the local network (in which case the developer will have limited contractual recourse in the event of delays), or by the generator who may be building new infrastructure for the project.

Specialist equipment for such projects (e.g. transformers, switchgear and generators) have lengthy lead-in periods and a developer may commit substantial upfront payments. Relying on offsite manufacturing can yield efficiencies but comes with associated risks.

Data centres need consistent power delivery to operate, the cost of which can be material depending on customer service locations, and typically require almost uninterruptible supply with minimal demand flexibility.

Trend 3: innovative financing solutions

Debt financing strategies

The different stages of the lifecycle of a data centre – land acquisition, bridge to planning, enabling works to power connection, actual build and stabilised investment – each come with different financing needs. Warehouse or subscription lines fund early commitments, senior debt and flexible private loans typically fund construction, syndicated loans, green bonds, "asset-backed securitisation" (ABS) and "commercial mortgage-backed securities" (CMBS) might be used to fund a data centres operational and ramp-up phase, and, upon meeting contracted occupancy and EBITDA thresholds, portfolios are termed out via bond take outs, recycling equity and lowering the cost of capital. While there is debt available for most scenarios, different lenders will have the ability to fund some but likely not all of these.

Where once developers turned to bank lenders to satisfy their debt requirements, private capital lenders now dominate the sector with their offer of flexible, innovative and sponsor friendly credit that is sized to, and can move at the pace of, site development and grid connection milestones. Private credit funds can achieve this flex via their use of alternative and creative funding structures, both when raising funds and deploying capital. These structures include asset-backed securitisation, credit tenant leases and "Single Asset Single Borrower" (SASB) CMBS products, financial products which leverage a data centre's stable cash flow and long-term lease contracts to access capital markets more efficiently and on better terms.

Taken together, the maturation of private credit and the deployment of bespoke, capital markets-oriented debt structures are redefining the cost, speed, and resiliency of data centre leverage. Debt providers that can anchor long dated, investment grade cash flows with flexible underwriting, construction to-permanent solutions, and scalable term out or securitisation take outs are best positioned to accelerate deployment, enable efficient equity recycling, and compress all in borrowing costs.

> Participants in the data centre sector must be nimble given the rate of investment, the consequent speed of technological change and the fast-evolving regulatory outlook.

Case study

Meta/Blue Owl joint venture

The innovative nature of private capital was well demonstrated by the recent $27bn joint venture between Blue Owl Capital and Meta to develop the Hyperion data centre campus in Louisiana, USA[3]. Wall Street's biggest ever private capital deal saw Blue Owl fund a portion of its capital commitment

by the issuance of bond debt. The bonds earned an A+ rating from S&P and were supported by an innovative lease-renewal structure in favour of the joint venture, which saw corporate super heavyweight Meta provide the joint venture with a residual value guarantee for the first 16 years of operations and agree, subject to certain conditions, to make a capped cash payment to the joint venture on the event of non-renewal or termination of the lease based on the then current value of the campus.

Trend 4: fast-moving sector regulation

Data centre regulation is fast moving, shaping site selection, design, contracting and operations. Developing policy themes include:

- critical infrastructure and cybersecurity: where data centres are treated as critical infrastructure, operators may be subject to "security by design", incident reporting and disaster recovery requirements, all of which may require extension through the supply chain;
- trade restrictions and export controls: constraints on advanced AI hardware affect procurement, provisioning and onboarding; and end user screening, geo fencing, secure management, and sanctions shape tenant eligibility, equipment supply and contracting; and
- competition law and foreign investment screening: merger control and foreign direct investment and national security reviews can impact ownership, security and location limits, affecting site acquisition, build out, long term leases, service arrangements and deal certainty.

Equally salient areas of emerging digital regulation relate to "data protection" (e.g. strict cross border transfer mechanisms influencing design and service terms), "data sovereignty" (e.g. operator nationality conditions which drive region pinned architecture, key support, vendor choice and operational controls) and "AI" (e.g. new AI rules may require data centres hosting training or inference clusters to enforce dataset provenance controls, enhance monitoring, security logging and incident reporting and tenant segregation for high-risk workloads).

Trend 5: reconciling data centre energy demands with sustainability objectives

More onerous environmental regulation is expected. Data centre operators are subject to, among other things, requirements promoting energy efficiency (e.g. in the UK, the sector is covered by climate change agreement regulations and, under the EU's revised energy efficiency directive, new data centres can be required to satisfy "power usage effectiveness" standards). There is also a focus on reusing waste heat and supporting local heat networks.

As well as demands on national energy grids, another significant resource pressure intrinsic to running data centres is the need to deploy cooling systems to prevent overheating and malfunction, which may involve using substantial water supplies for such processes (e.g. chilled water systems, direct-to-chip and immersive cooling). Depending on climatic factors and local regulation, issues may arise in the future in relation to regional water scarcity and restrictions on supplies and private abstraction.

If the exponential growth in data centre services continues, there may have to be a balancing of priorities between such demands and sector policies on decarbonisation and sustainability.

Concluding remarks

There is without question significant demand for investing in the delivery of data centre infrastructure. However, as outlined in this article, whether negotiating land acquisition, expediting planning and permitting, gaining access to reliable power supplies, or when structuring bespoke investment strategies (e.g. investing at property level and/or in the operating business of a data centre), careful coordination of the project's timing and sequencing is required, as well as highly customised contractor and lender profiling. Keeping track of policy developments is of utmost importance given that the regulatory framework for ongoing ownership and operation of data centres is diverse and frequently changing.

In addition, participants in the sector are required to be nimble given that the rate of investment and the consequent speed of technological change in the data centre space demand an ability to adapt to an ever evolving technological outlook to avoid any risk of early obsolescence. Expert legal advice is key, at all stages of a project and to all participants, to help deliver successful investment outcomes.

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Endnotes

1 European Data Center Investment to Top €100B by 2030 – Report

2 The cost of compute power: A $7 trillion race | McKinsey

3 Meta Announces Joint Venture with Funds Managed by Blue Owl Capital to Develop Hyperion Data Center

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