

Insights

## STRUCTURING SHELL AND CORE DATA CENTRE DEVELOPMENTS: LEGAL STRATEGIES FOR SCALABILITY AND FLEXIBILITY

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### SUMMARY

*This is the second in a ten-part article series on the legal strategies shaping the future of data centre development in the UK.*

The UK data centre sector's expansion is increasingly dominated by the shell and core development model. Hyperscale and major colocation tenants are seeking to deploy capital efficiently, accelerate their time-to-market, and retain maximum control over their proprietary technical environments. In response, developers are delivering powered shells – buildings with foundational power and cooling infrastructure but without tenant-specific fit-out – as the market standard.

This approach provides tenants with the freedom to customise their IT architecture. But it also presents developers and investors with complex legal and commercial challenges. The core objective is to create a flexible, scalable asset while ensuring a secure, bankable investment that meets the stringent criteria of institutional finance.

The success in shell and core projects depends on the seamless integration of development, construction, leasing and regulatory strategies. A misstep in one area can cascade through the project, affecting finance, tenant relationships and operational performance.

This second instalment of our Insight Series examines the legal frameworks underpinning these developments, from the structure of development agreements and lease contracts to the regulatory considerations shaping the market.

## THE DEVELOPMENT AGREEMENT: LEGAL FOUNDATIONS FOR FLEXIBILITY

At the heart of any shell and core project lies the development agreement, which is typically a bespoke Development Management Agreement (DMA). Far from a simple construction contract, it orchestrates multiple stakeholders—including funders, contractors, professional teams and prospective tenants—while allocating risk to maintain bankability. Ambiguity or imbalance in the DMA can ripple through the entire project lifecycle, affecting finance, construction and leasing.

TO DELIVER A ROBUST DMA, DEVELOPERS SHOULD FOLLOW THESE KEY STEPS:

1. **Clearly define the scope of works:** The DMA must clearly delineate the developer's shell and core responsibilities from the tenant's fit-out obligations. This includes specifying structural and envelope performance, electrical distribution points, cooling plant resilience (e.g., N+1, N+2) and secure fibre entry into "meet-me" rooms. Over- or under-specifying the shell can lead to unmarketable space or avoidable costs.
2. **Co-ordinate contractor responsibilities:** With multiple specialist contractors on board, interface risk increases. The DMA should allocate responsibilities clearly, establish coordination protocols and protect the developer from disputes between contractors. This will ensure the smooth integration of structural, mechanical and electrical works.
3. **Lock in costs, schedule and performance standards:** Set fixed or capped prices for construction, define detailed milestone schedules and include liquidated damages for delays or underperformance. Include performance-based measures to make sure core systems meet agreed metrics such as Power Usage Effectiveness (PUE) and Water Usage Effectiveness (WUE).
4. **Plan for scalability:** Flexibility is central to shell and core value. Developers must embed rights for future expansion, including modular construction options, "dark" fibre, oversized conduits and reserved grid capacity. Structuring these as contractual options will help the development team remain aligned with the long-term vision of the site.

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## HOW TO STRUCTURE LEASES FOR MAXIMUM BANKABILITY

Leases turn a shell and core development into predictable, financeable revenue. Pre-let Agreements for Lease (AFLs) with anchor tenants are key to this, balancing tenant flexibility with protection of the asset. A data centre lease must give tenants the operational freedom they need while safeguarding the developer's investment and the long-term integrity of the building.

There are two ways to achieve this balance. First, establish clear rules for tenant fit-outs. Leases should govern all tenant works, including electrical loads, cabling, fire suppression and security systems. This prevents modifications from compromising the building's structure, compliance or operational performance. The AFL usually includes a "fit-out guide" or technical protocol, which specifies electrical and heat limits, approved cabling methods, and permitted security and fire systems. It also defines a review and approval process that is fast enough to avoid delaying rent, but thorough enough to protect the base building.

Second, plan for phased take-up and future expansion. Hyperscale tenants rarely need full capacity from day one, so leases should allow for staged growth. This can take the form of binding commitments to take additional data halls or power at set dates, or options giving the tenant the right, but not the obligation, to expand. Rent for future space should be clearly defined, whether through a fixed uplift, an index-linked formula or market valuation, and financing should account for the uncertainty of optional expansion. The lease should also spell out how expansion will be delivered, including timelines for providing additional space, responsibilities for construction or fit-out, cost allocation and procedures for handing over the new facilities. Done well, these provisions give tenants operational flexibility while protecting the developer's long-term financial stability.

## PROTECT YOUR ASSET VALUE WHILE ENSURING BANKABILITY

The long-term value of a data centre lease is closely linked to the financial strength of the tenant. Lenders scrutinise tenant covenants carefully: for investment-grade hyperscale tenants, this is usually straightforward, but for colocation providers or smaller enterprises, a robust security package is essential. This often includes a substantial rent deposit – typically six to twelve months' rent – and a Parent Company Guarantee (PCG) from a financially sound entity within the tenant's corporate group.

## RENT

Rent structures and service charges are also important tools for protecting a developer's investment in data centres. Leases are almost always "triple net", meaning tenants cover not just base rent but also all property-related costs, from maintenance to insurance and taxes. In multi-tenant facilities, a clear and transparent service charge mechanism is essential to ensure shared infrastructure, such as cooling plants, security systems, and common areas, is funded fairly.

Maintenance and reinstatement obligations are equally important, because they help preserve the long-term value of the property. Developers typically remain responsible for the building's structure and exterior, while tenants take care of their internal fit-outs. One of the most heavily negotiated clauses is the "yield-up" provision, which determines the condition in which tenants must return the space at the end of the lease.

Most developers require tenants to remove their fit-out and restore the premises to its original shell, making sure the building remains attractive and marketable for future tenants. Clearly

defining these responsibilities is vital, because they carry significant financial and operational implications and help avoid costly disputes.

## **REGULATORY COMPLIANCE: NAVIGATING A COMPLEX AND EVOLVING MATRIX**

For data centre developers, regulatory compliance is not just a legal hurdle, but a cornerstone of risk management, tenant assurance and long-term asset value. The UK's regulatory framework for construction and building operation is stringent, and for a technically complex asset like a data centre, a proactive and integrated compliance strategy is essential.

A core challenge in a shell and core model is the dual responsibility for compliance with the Building Regulations 2010. The developer is responsible for ensuring the base build is compliant, while the tenant is responsible for their fit-out. The AFL and lease must create a contractual framework to manage this interface, ensuring that the final, integrated building is fully compliant.

Although data centres may not always fall within the formal scope of a "higher-risk building" under the Building Safety Act 2022, the principles of the Act, such as the "golden thread" of information, are rapidly becoming industry best practice. Sophisticated clients are demanding a comprehensive digital record of the building's design, construction and safety features, and the development and lease agreements must facilitate the creation and handover of this information.

Fire safety remains a critical concern. The developer is responsible for the core fire strategy, including structural fire resistance, compartmentation between data halls and the primary detection and alarm systems. The lease must then obligate the tenant to design and install their own specialised fire suppression systems (such as hypoxic air or gaseous systems) in a way that is fully integrated and compatible with the landlord's base-build systems. This requires close collaboration between the parties' technical experts and is a key focus for insurers and funders.

Sustainability adds a further layer of complexity. Compliance with Part L (energy efficiency) is the baseline, but investors and hyperscale tenants typically demand much more—often a BREEAM "Excellent" or "Outstanding" rating. Developers must embed efficiency through high-performance cooling and building envelopes, while leases increasingly include "green" clauses requiring tenants to operate fit-outs in ways that support certification and wider ESG goals. These provisions, covering energy, waste and water, are now central to protecting both asset value and market credibility.

## **THE ART OF STRUCTURED FLEXIBILITY**

The successful delivery of a shell and core data centre is a masterclass in structured flexibility. It requires a legal framework that is robust enough to satisfy the most demanding institutional lenders. But it also needs to be adaptable enough to meet the evolving technological requirements

of the world's most sophisticated tenants. The development agreement and the lease are two halves of a single, integrated strategy that, designed well, can allocate risk responsibly, protect bankability and maximise long-term asset value.

## How we can help

Our cross-practice team of real estate, construction, finance and regulatory lawyers understands the intricate dynamics of data centre legal strategies. We provide the holistic, commercially-focused legal advice necessary to structure these complex projects, transforming legal challenges into commercial advantages. We partner with our clients to build the resilient, scalable and sustainable digital infrastructure that the future demands.

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