BCLP. Client Intelligent

Sectors in focus

THE NEW DYNAMICS OF DATA CENTER SITE SELECTION

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Summary

With greenfield land limited and grid connection timelines long, developers are widening their search for data center sites, crossing borders and acquiring land previously considered too compromised to be viable. Developers are buying infrastructure platforms rather than merely acquiring and remediating contaminated land.

Developing these more challenging brownfield sites and legacy assets creates real advantage. They often come with existing power and transmission access built in, eliminating the cost of reaching powered land. An expansive toolkit of liability protections, insurance and public incentives is also helping to turn complexity around contamination, title encumbrances and restrictive covenants into bankable value.

What makes a brownfield site bankable? A brownfield site becomes bankable when environmental risks are sufficiently identified, quantified and allocated to allow developers, lenders, investors and insurers to underwrite the project with confidence. The objective is not to eliminate all risk, but to create a predictable framework for financing, development and exit.

Site control arrangements are evolving to reflect the capital intensity of these projects. Options, conditional contracts and ground leases are increasingly stacked across joint ventures and other multi-party structures, spreading the initial outlay across parties while raising exit questions early on. Deals structured for eventual partition, refinancing or sale will minimise disruption at exit.

At the same time, secondary diligence items such as proximity to end users, latency, data sovereignty and carrier neutrality are becoming explicit value drivers, pulling data centre site selection into new legal territory.

Not all compute has the same location requirements. Latency-sensitive, sovereign and security-critical workloads may require domestic or regional capacity, while more portable workloads can migrate to markets offering faster access to lower-cost power. Site strategy should therefore test the intended workload rather than treating all demand as geographically fixed.

> “Developers are often under pressure to move quickly and keep pursuit costs down. But on complex sites, early diligence and thoughtful risk allocation can make the difference between a project that stays on schedule and budget and one that faces unexpected delays and costs. The goal is not to eliminate every risk. It is to identify the material risks early enough to allocate them appropriately and build a predictable path forward.”
>
> Erin Brooks , Office Managing Partner, Chicago

Snapshot: What's Changing in Site Selection?

Category	Now	Next
Land Availability	Brownfield, constrained or compromised sites are increasingly appropriate. Developers cross borders to find suitable sites.	Legacy industrial, power generation and telecoms sites are actively sourced for their infrastructure benefits and incentives, not despite them.
Environmental Conditions	Light-touch diligence is typically sufficient to identify general risk, but additional diligence is often required to determine the extent of conditions and any remediation needs.	No environmental risk-transfer strategy is better than the diligence supporting it. Insurance underwriting, liability allocation, financing assumptions, remediation budgets and development schedules all depend on a clear understanding of site conditions. Environmental risk transfer is becoming a standard financing input through liability protections, insurance and incentives.
Redevelopment Complexity	Environmental risk is often viewed primarily through the lens of contamination and remediation.	Developers take a broader view of site risk, evaluating geotechnical conditions, groundwater, climate resilience, demolition requirements and legacy infrastructure alongside contamination to determine project feasibility and bankability.
Site Control	Options, conditional contracts and ground leases are increasingly common, often layered	Site control terms are drafted with eventual partition and resale in mind. Severability of title, shared infrastructure agreements and

Category	Now	Next
	across joint venture structures.	step-in rights are negotiated at acquisition to support a successful exit.
New Fundamentals	Proximity to end users, latency, data sovereignty and carrier neutrality are emerging diligence considerations, while reliable access to energy remains constant.	Connectivity and sovereignty credentials become explicit value drivers on data centre projects. Carrier-neutral access, data residency and user proximity are increasingly priced into asset value.

WHAT NEXT? KEY QUESTIONS FOR LEADERS

- Is there more you could do to capture advantage from brownfield projects?
- Have diligence protocols evolved to suit new opportunities, and what changes need to be made?
- Do your commercial agreements and protections adequately address higher environmental liability risk and remediation uncertainties or potential delay?
- Are you over-reliant on standard deal templates, and how can you reshape these to meet growing complexity?

HOW BCLP CAN SUPPORT YOU ACROSS THE DATA CENTER LIFECYCLE

We help clients compete where others can't, bringing global insight to the legal challenges of next generation digital infrastructure. We understand the unique complexities and commercial drivers of the sector, and look at the whole asset, so you can maximize value. Our seamless coverage across real estate, planning, energy, construction, finance, tax, regulatory, data and disputes helps you connect the dots across the data center lifecycle.

Related capabilities

- Data Centers

Meet the team

Tim Cline

Partner, St. Louis

tim.cline@bclplaw.com
+1 314 259 2238

Erin L. Brooks

Office Managing Partner - Chicago, Chicago / St. Louis

erin.brooks@bclplaw.com
+1 312 602 5093

Mark Richards

Partner and Regional Practice Group Leader - Energy, Environment and Infrastructure, London

mark.richards@bclplaw.com

+44 (0) 20 3400 4603
