

Data Centres: Common issues and how to avoid them

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We continue to see a high demand for data centres. Far from being 'big sheds with lots of M&E', they are technically complex, challenging projects which can give rise to all manner of legal issues and disputes.

Agenda

- Introduction
- Similar issues that arise on other construction projects
- Time – delays to completion
- Overrun – increase in costs
- Quality
- Other sensitivities / challenges
- Practical points to consider and tips for potential claims

Introduction

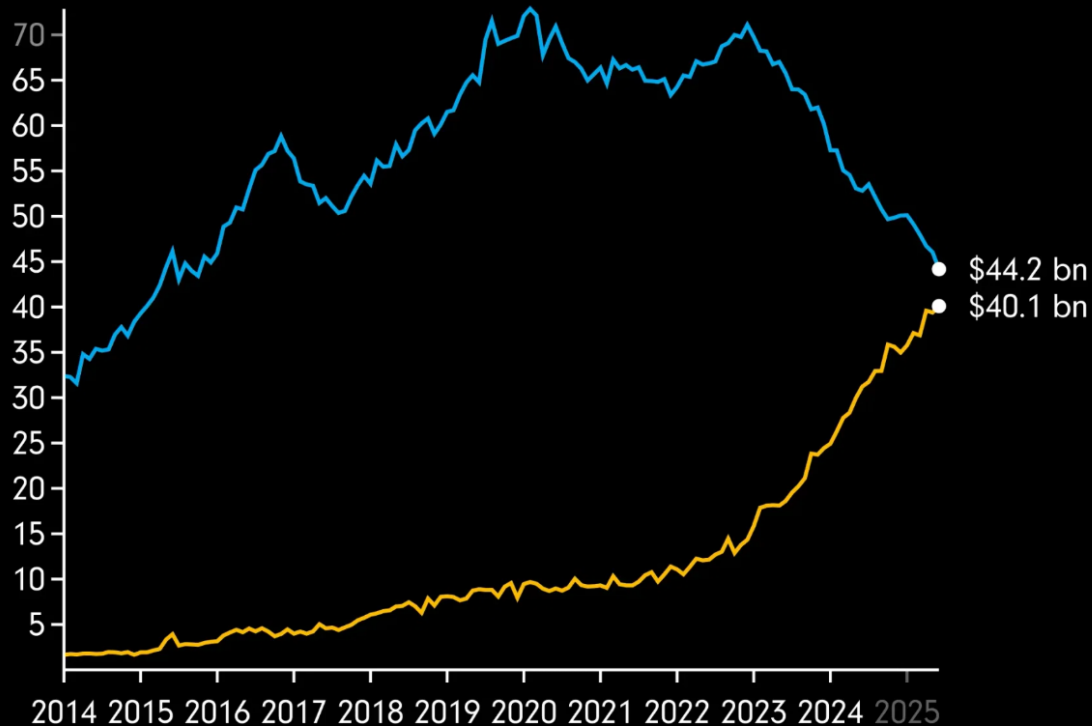
- Why data centres matter.
- UK data centre market overview.
- Government support and policy.
- Trends and challenges.

Data Center vs. Office Construction

SAAR (\$ Billions) in the U.S.

Jun 2025

— General office — Data center



 PlotSet

Source: U.S. Census Bureau

Similar issues that arise on other construction projects

- Data centres as construction projects:
 - Delays to completion.
 - Increase in costs.
 - Quality issues.

Delays to completion

- Design changes
 - E.g., technological developments (AI), tenant-led changes.
- Access delays
 - Delays to preceding trades.
- Supply chain delays
 - High demand means a strain on supply chains.
- Complexity and quality of M&E work
 - M&E fit-out typically represents 60%–70% of data centre construction and expenditure.
- Availability of skilled workforce
- Site conditions

Increase in costs

- Delays (as discussed above)
 - Prolongation costs, delay LDs. High end-user losses due to delays, leading to high delay LDs, which may be difficult to pass down supply chain.
- Inflationary pressures (component cost increases)
 - International suppliers, components shipped from overseas, susceptible to global pressures. T&T 2025 forecast indicates construction costs will continue to rise.
- Variations
 - Often driven by design development and contractor coordination.
- Disruption claims
 - Challenging supply chains and working around issues caused by preceding trades.

Quality issues

- Issues during construction
 - Technically complex, inter-related works.
 - Satisfaction of planning conditions.
- Issues post-construction
 - Defects can be incredibly hard to rectify. Access limited, sensitive equipment/environment.
 - Huge downtime losses.
- Other challenges
 - OFCI – risk allocation.
 - Tenant requirements.

Other sensitivities / challenges

- Complex contractual situation
 - Multi-party environment, contracts not back-to-back, where are the rights vested?
- Complexity of projects
 - E.g. challenges such as power supply – may be linked with renewable energy projects / alternative solutions, adds complexity (and risk). Water supply?
- Procurement – different approaches, each with different pros and cons
 - D&B? Construction Management becoming more popular?
- Confidentiality

Practical points to consider and tips for potential claims

- Key Contract Risks :-
 - PCG from Contractor or Employer?
 - Ability to access fast track dispute resolution (e.g. adjudication).
 - Back to Back entitlement?
- Contract Administration and Record Keeping
 - Early engagement with the supply chain including more extensive pre-contract engagement to, for example, work out the programme together, realistic timeframes etc. Also, determine the detailed commissioning programmes early on.
 - Keep good, thorough, contemporaneous records including Progress Reports, impacted (As Built) programme and correspondence.
 - Notices and claims – condition precedent considerations.
- Mitigation

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Questions?
Thank you

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